

Public Document Pack

Date of meeting Tuesday, 22nd April, 2014
Time 6.30 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Julia Cleary

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 5 - 10)
To receive the minutes of the previous meeting held on 3rd April 2014.
- 4 **Application for Major Development - Land to Rear of Rowley House; Ian Moreton/Peter Jackson Associates; 13/00990/OUT** (Pages 11 - 32)
- 5 **Great Oak, Land at Bignall End; 00128CPO** (Pages 33 - 38)
- 6 **Application for Major Development - Thorp Precast Ltd Unit G1 Apedale; Thorp Precast/Forshaw Greaves & Partners; 14/00140/FUL** (Pages 39 - 46)
- 7 **Application for Minor Development -The Crofts Pinewood Road, Ashley Heath; Mr and Mrs Dawson; 14/00150/OUT** (Pages 47 - 56)
- 8 **Application for Minor Development -St Marys and All Saints Church Whitmore. Reverend Nigel Clemas; 14/00158/FUL** (Pages 57 - 64)
- 9 **Application for Other Development -21 Rathbone Avenue; C Horne; 14/00183/FUL** (Pages 65 - 68)
- 10 **Enforcement Report Following Refusal of Application 14/00080/FUL; Tadgedale Quarry** (Pages 69 - 72)
- 11 **Section 106 Quarterly Report** (Pages 73 - 76)
- 12 **Application for Financial Assistance (Historic Buildings Grant) -Madeley War Memorial; 13/14011/HBG** (Pages 77 - 78)
- 13 **Application for Financial Assistance (Historic Buildings Grant) -2 Court Walk; 13/14014/HBG** (Pages 79 - 80)
- 14 **Appeal Decision - 20 The Avenue; 13/00190/FUL** (Pages 81 - 82)

- 15 **Appeal Decision -Wolstaton Retail Park; 13/00366/ADV** (Pages 83 - 84)
- 16 **Planning Performance and Planning Contributions** (Pages 85 - 88)
- 17 **Affordable Housing Contributions Consultation** (Pages 89 - 90)
- 18 **Diglake Quarry, Bignall End - Confirmation of a TPO** (Pages 91 - 94)
- 19 **Cheshire East Council Local Plan Strategy** (Pages 95 - 102)
- 20 **Open Enforcement Cases** (Pages 103 - 104)
- 21 **Enforcement Quarterly Report on Authorised Cases** (Pages 105 - 110)
- 22 **DISCLOSURE OF EXEMPT INFORMATION**

To resolve that the public be excluded from the meeting during consideration of the following item because it is likely that there will be a disclosure of exempt information as defined in paragraphs 6 and 7 in part 1 of 12A of the Local Government Act 1972.

- 23 **Quarterly Report on Progress on Enforcement Cases Where Enforcement Action Has Been Authorised - Restricted Appendix** (Pages 111 - 112)

24 **URGENT BUSINESS**

To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

Members: Councillors Bailey, Baker, Clarke (Chair), Fear, Hambleton, Mrs Hambleton, Howells, Matthews, Miss Reddish, Stringer (Vice-Chair), Studd, Sweeney, Turner, Williams and Mrs 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.

PLANNING COMMITTEE

Thursday, 3rd April, 2014

Present:- Councillor Michael Clarke – in the Chair

Councillors Miss Baker, Fear, Hambleton, Mrs Hambleton, Matthews,
Miss Reddish, Stringer, Studd, Sweeney, Turner, Williams and
Mrs Williams

15. DECLARATIONS OF INTEREST

There were no declarations of interest.

16. MINUTES OF PREVIOUS MEETING

Resolved: That the minutes of the meeting held on 11th March 2014 be agreed as a correct record.

17. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF WATERMILLS ROAD, CHESTERTON; GARDEN DEVELOPMENT LIMITED/ LES STEPHAN PLANNING; 13/00974/OUT

Resolved:

That the application be refused for the following reasons:

1. In the context of the shortage of employment land in the Borough and in the absence of any convincing evidence to demonstrate that it is unlikely that the site will be developed for employment, the loss of this good quality employment site would have an adverse impact upon the economic growth of the Borough. This adverse impact would significantly and demonstrably outweigh the benefits of the contribution to housing supply.
2. In the absence of a secured planning obligation the development fails to make an appropriate contribution to the Newcastle (urban) Transport and Development Strategy (NTADS) which seeks to improve local accessibility and promote the most sustainable modes of travel.
3. In the absence of a secured planning obligation and having regard to the likely additional pupils arising from a development of this scale and the capacity of existing educational provision in the area, the development fails to make an appropriate contribution towards primary school provision.
4. In the absence of a secured planning obligation the development fails to make an appropriate contribution towards the provision of affordable housing which is required to provide a balanced and well functioning housing market.
5. In the absence of a secured planning obligation the development would not make an appropriate financial contribution towards the development, improvement and maintenance of off-site public open space.

18. APPLICATION FOR MAJOR DEVELOPMENT - LAND TO REAR OF ROWLEY HOUSE, MADELEY; IAN MORETON / PETER JACKSON ASSOCIATES; 13/00990/OUT

Resolved: That there be a site visit.

19. **APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF GATEWAY AVENUE, BALDWINS GATE; RICHBOROUGH ESTATES / HOURIGAN CONNOLLY; 13/00426/OUT**

Resolved:

That the Committee confirm:

- 1) That it wished officers to now write to the applicant, without prejudice to the Local Planning Authority's case that the proposal is unacceptable (for the reasons indicated in its decision notice), to confirm that the obligations referred to in the recommendation that was provided to the Planning Committee were required by the Local Planning Authority, except that with respect to affordable housing;
- 2) That officers commence immediate enquiries with those parties who sought such obligations to establish that evidence of the nature indicated in the report below exists so as to justify these requirements; and should your officer, upon receipt of that evidence, no longer consider this to be the case, that a further report be brought back to the Planning Committee, if necessary as an item of urgent business, or in the event that there is not sufficient time to do that, your officer resolves the position of the Local Planning Authority, in consultation with the Chairman and Vice Chairman;
- 3) That with respect to the matter of affordable housing that officers write to the applicant confirming that the Borough Council's position is that it is seeking the provision of 25% on site affordable housing and that it considers that such a matter can and should be addressed by an appropriate Section 106 obligation, the terms of which it is willing to discuss with the applicants agents;
- 4) That in preparing the Council's full Statement of Case that officers, or the Council's agents, include reference to these above requirements;
- 5) That should the applicant seek before the appeal is determined to enter under Section 106 of the Town and Country Planning Act, 1990 as amended, into an agreement with the Council containing such obligations, officers have the appropriate authority to enter into such an agreement;
- 6) That, for the avoidance of any doubt, your officers have authority to agree a Statement of Common Ground that takes into account the authority's' reasons for refusal of the application; and

20. **APPLICATION FOR MINOR DEVELOPMENT - LAND ADJACENT TO SAINSBURYS STORE, LIVERPOOL ROAD; MARSTON INNS AND TAVERNS & WILDGOOSE CONSTRUCTION / PEACOCK AND SMITH; 13/00807/FUL**

Resolved:

That the application be permitted subject to conditions concerning the following matters:

1. Commencement within three years.
2. Approved plans.
3. Prior approval of materials.
4. Levels to be in accordance with approved plans unless otherwise agreed.
5. Provision of a fence or other barrier to prevent access between the proposed development and the rear of properties on Ashfields New Road in accordance with details to be agreed. The barrier should be from the corner of the building to the corner of the rear boundary of 1 Ashfields New Rd (with any gate necessary to achieve appropriate means of emergency exit from the premises to be alarmed to prevent unauthorised use)
6. Hard and soft landscaping to be carried out in accordance with the approved details. Landscaping to include additional planting to the rear of the development behind Ashfields New Road.
7. Provision of access, parking, servicing and turning areas before the development is brought into use.
8. Prior approval of surfacing materials, surface water drainage, and delineation of parking and servicing areas.
9. Any gates to be a minimum of 10m rear of the Sainsbury's access road and shall open away from the highway.
10. Prior approval of a Construction Method Statement to include details of the site compound; access for construction vehicles; the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; and wheel wash facilities.
11. Prior approval and provision of secure weatherproof cycle parking.
12. Implementation of noise mitigation measures as set out in the submitted Noise Assessment, and/or as recommended by the Environmental Health Division.
13. That bottles are not emptied outside beyond 19:00hrs,
14. Prior approval of details of facilities to prevent the deposition of extraneous matter (mud, debris, etc.) on the public highway before commencement of development and implementation in accordance with the approved details.
15. No machinery to be operated or process to be carried out in the construction of the development, and no construction traffic to enter or leave the site between 1800 hours and 0700 hours Monday to Friday, and not at any time on Sundays, Bank Holidays or after 1300 hours in Sundays.
16. The residential element shall remain in the same ownership as the commercial activity unless otherwise approved by the Local Planning Authority (LPA).
17. Construction, glazing and ventilation of the residential element to be in accordance with the Noise Report.
18. Noise mitigation measures for the mechanical services servicing the development to be in accordance with the Noise Report.
19. Installation of a noise limiting device, to be maintained thereafter, to control internal noise levels from amplified music to the level agreed by the LPA.
20. Deliveries restricted to between 0700 and 2100 hours on any day.
21. Acoustic screen to be erected prior to commencement of commercial activities in accordance with the details in the Noise Report.
22. Noise mitigation measures for deliveries as set out in the Noise Report shall be employed.
23. Empty bottles to be stored and handled, and presented for collection as set out in the Noise Report.
24. Means to prevent grease, fat and food debris from entering the foul drainage system to be implemented in accordance with approved details.
25. Prior approval of an odour abatement system for the kitchen before commencement of development and implementation in accordance with the

approved details. Cooking process to cease at any time the extraction system fails to operate.

26. Submission and implementation of a lighting assessment.

21. **APPLICATION FOR MINOR DEVELOPMENT -TADGEDALE QUARRY, MUCKLESTONE ROAD, LOGGERHEADS; MALCOLM HARRISON / DEP; 14/00080/FUL**

Resolved:

That the application be refused for the reason that the intended use of the building would have an unacceptable impact on residential amenity by virtue of noise dust and odours due to the proximity of the building to the neighbouring property

22. **APPLICATION FOR OTHER DEVELOPMENT -LAND OFF PINWOOD DRIVE, LOGGERHEADS; MR R NEWTON CROSS; 14/00053/OUT**

Resolved:

That the application be Refused as the size of the plot and dwelling would be out of keeping with the character and appearance of the area. Such harm would demonstrably and significantly outweigh the benefits of the development on the supply of housing land and as such there was not a presumption in favour of this development.

23. **APPLICATION FOR OTHER DEVELOPMENT - SWIFT HOUSE, LIVERPOOL ROAD; AUTO ACCEPT FINANCE; 14/00055/FUL AND 14/00056/ADV**

Resolved:

Application 14/00055/FUL

Permit subject to the following conditions:

- 1. Development to be carried out in accordance with the approved, amended plan.**
2. Conditions of 12/00770/FUL continuing to apply

Application 14/00056/ADV

Permit with no conditions.

24. **APPLICATION FOR OTHER DEVELOPMENT; FORMER SAINSBURYS SITE; NULBC; 14/00188/DEEM4**

Cllr Turner declared an interest in relation to this item due to his capacity as Portfolio Holder for Economic Development, Regeneration and Town Centres.

Resolved:

- (a) That prior approval is required
- (b) That details of the method of demolition and restoration of the site be approved

25. **APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) -13/14015/HBG AUDLEYS CROSS FARM, LOGGERHEADS - GRANT APPLICATION FOR REINSTATEMENT OF TIMBER WINDOWS**

Resolved:

1. That a grant of £2,334 be approved for the reinstatement of timber windows at Audleys Cross Farm, Loggerheads.
2. That in addition to the standard conditions, a specific condition be added that the windows should be replaced and the grant offer taken up within 3 months of the date of the decision to award the grant (3rd April 2014).

26. **COMMITTEE SITE VISIT DATES 2014/2015**

Resolved: That the list of dates and times for possible Planning Committee site visits for 2014/2015 be agreed

27. **CONFIRMATION OF TPO 151 - FORMER VICARAGE, HAWKSTONE CLOSE**

Resolved: That Tree Preservation Order No 151 (2013) for the Oak tree identified as T1, at the Vicarage, Hawkstone Close Newcastle Road, Staffordshire be confirmed as made and that the owners of the trees be informed accordingly.

28. **CONFIRMATION OF TPO 149 - LAND TO NORTH OF 41 BOON HILL ROAD, BIGNALL**

Resolved: That Tree Preservation Order No 149 (2013), land to the north of 41 Boon Hill Road, Bignall End be confirmed as made and that the owners of the site be informed accordingly.

29. **TPO 150 - LAND ADJACENT TO 31 BANBURY STREET, TALKE**

Resolved: That Tree Preservation Order No 150 (2013), Land adjacent to 31 Banbury Street Talke, be confirmed as made and that the owners of the tree be informed accordingly.

COUNCILLOR MICHAEL CLARKE
Chair

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LAND ADJACENT TO ROWLEY HOUSE, MOSS LANE, MADELEY
MR IAN MORETON

13/00990/OUT

The application is for outline planning permission for the erection of up to 42 dwellings at land at Moss Lane, Madeley. Vehicular access from the highway network (Moss Lane) into the site for the first 80 metres into the site is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other internal access details) reserved for subsequent consideration.

The application site lies on the western side of Moss Lane, and except for its access point onto Moss Lane, outside the village envelope of Madeley and within the open countryside and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map. The site is not within the Green Belt, but it adjoins the Green Belt. The site area is approximately 1.65 hectares.

There are three protected trees on the north eastern boundary of the site (Tree Preservation Order no. 100)

The 13 week period for the determination of this application expires on the 5th May 2014.

A decision on this application was deferred at the meeting of the Committee held on 3rd April 2014 to allow Members to visit the application site.

RECOMMENDATIONS

A. Subject to the applicant first entering into a Section 106 obligation by 20th May 2014 to require:-

- 1) A contribution of £49,866 (on the basis that the development as built is for the full 42 dwellings and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy, towards school spaces at Madeley High School;**
- 2) Tenure Blind Affordable Housing provision ;**
- 3) A contribution of £2,943 per dwelling towards Open space improvement/ enhancement/ maintenance at either College Gardens or Madeley Pool**

Permit the application, subject to conditions concerning the following matters:

- **Condition to reflect outline nature of application**
- **Time limit for submission of any approval of reserved matters and for commencement**
- **Approved plans and documents**
- **Reserved matter submission to be informed by the principles within a revised Design and Access Statement taking into account Urban Visions recommendations**
- **The proposed dwellings to be built to minimum Code for sustainable homes Level 3 standard**
- **Recommendations in the submitted tree survey and arboricultural impact report**
- **Tree protection measures**
- **Arboricultural Method Statement**
- **Control works within the Root Protection Areas**
- **Landscaping reserved matters to include tree planting**
- **Reserved matters to include details relating to surface water drainage and road specification**
- **Provision of the new access onto Moss Lane as applied for**
- **Off Site footpath widening**
- **Provision of details of residential street layout and character**
- **Mitigation measures prevent debris being deposited on the Highway**
- **Site and construction compound details**
- **Contaminated Land Conditions**
- **Construction hours restriction where appropriate**
- **Construction management plan**
- **Internal noise levels in dwellings**
- **External noise levels**
- **Vibration assessment**
- **External lighting**
- **Waste storage and collection arrangements**
- **Sustainable drainage methods including SUDS and permeable paving**
- **Separate storm and foul water drainage**
- **Recommendations within the submitted Ecological walk-over Survey are implemented**

B. Failing completion by 20th May 2014 of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that in the absence of such obligations the proposal fails to make an appropriate contribution to provide appropriate level of affordable housing which is required to provide a balanced and well functioning housing market, the improvement, enhancement and maintenance of off site open space provision , and an appropriate contribution towards school provision; 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 and village envelope. The adverse impacts of the development - principally the extension of the village into the countryside – do not significantly and demonstrably outweigh the benefits of the development, which is sustainable, and accordingly permission should be granted, provided the financial 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.

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)

Sets out a sustainable hierarchy of centres including of Rural Service Centres and Villages, indicating that the rural settlements that have been identified as Rural Service Centres are those that provide the most comprehensive range of essential rural services, and that development within these centres will primarily be to ensure that this offer, and therefore the sustainability of these centres is maintained

The CSS's strategic aims include the following:-

Strategic Aim 1 (SA1) – to halt net outward migration from Stoke-on-Trent and retain and attract population to the conurbation

Strategic Aim 3 (SA3) - To reduce the need to travel, improve accessibility and increase the opportunities for development of sustainable and innovative modes of travel to support the regeneration of the plan area by securing improvements to public transport infrastructure; and the progressive provision of park and ride and facilities to promote walking and cycling

Strategic Aim 4 (SA4) - To balance the supply and demand for quality housing; removing surplus and unfit/obsolescent accommodation; providing a better choice of homes in sustainable locations and to ensure that a sufficient number of new homes are affordable

Strategic Aim 11 (SA11) - To focus development within the communities of Loggerheads, Madeley and Audley Parish to support their function as rural service centres which meet the requirements of local people

Strategic Aim 12 (SA12) - To renew the fabric of urban and rural areas to promote the best of safe and sustainable urban and rural living

Strategic Aim 15 (SA15) – To protect and improve the countryside and the diversity of wildlife and habitats throughout the plan area

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 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 N20	Areas of Landscape Enhancement
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other material considerations include:

National Planning Policy

National Planning Policy Framework (March 2012) and its technical guidance on Flood Risk

National Planning Practice Guidance (March 2014)

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

Manual for Streets

Supplementary Planning Guidance/Documents

Madeley Village Design Statement 1998

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

Nil except for the recent grant of planning permission (14/00009/FUL) for a dwelling in the grounds of Rowley House

Views of Consultees

Madeley Parish Council strongly objects to the proposal, on following grounds:-

- The availability of services in the local area in terms of school spaces, doctors surgery, dentists etc and the pressure the development would place on these services.
- The development is inappropriate being outside the village envelope and adjacent to the Green Belt boundary and future threats to the Green Belt.
- Moss Lane cannot accommodate additional traffic, together with parking issues/problems in the area relating use of the GP surgery.

- Concerns regarding the existing sewage infrastructure and capacity of this with additional demand placed upon it.
- The site is subject to flooding and its development may cause additional flooding in the area.
- The fact that it is an outline application with all matters reserved gives the community no confidence that the indicative layout submitted would be delivered.

Highway Authority has no objections to the proposal subject to the imposition of the following conditions:-

- The development is not brought into use until the access to the site, within the limits of the highway, has been completed.
- The provision of visibility splays either side of the proposed access have been provided.
- Off site highway work relating the widening of the footpath across the frontage of the site
- Submission of reserved matter details together with the means of surface water drainage and full road specifications
- Submission, approval and implementation of a Construction Method Statement

Education Authority advises this development falls within the catchments of Sir John Offley CE(VC) Primary School (Madeley), The Meadows Primary School (Madeley Heath) and Madeley High School. The development is scheduled to provide 42 dwellings. Excluding the 10 Registered Social Landlord (RSL) dwellings from secondary only, a development of 32 houses including 10 RSLs could add 9 Primary School aged pupils, 5 High School aged pupils and 1 Sixth Form aged pupil.

The Meadows Primary is projected to be full for the foreseeable future however, Sir John Offley CE (VC) Primary School is projected to have sufficient space to accommodate the likely demand from pupils generated by the development and therefore no request will be made towards Primary School provision.

Madeley High School is projected to have insufficient places available to accommodate all of the likely demand from pupils generated by the development. Madeley High School is projected to have limited places available in two year groups only and this has been taken into consideration when calculating the necessary education contribution.

Therefore request an education contribution for 3 secondary school places (3 x £16,622 = £49,866).

The above comments are based on a development providing 42 houses. If the number of dwellings, or the dwelling breakdown were to alter a review of the education contribution will be necessary. The above contribution is based on the 2008/09 cost multipliers which are subject to change.

Environment Agency has no objections to the proposal subject to conditions relating to sustainable drainage provision and land contamination

Network Rail makes no adverse comments regarding this outline application.

Environmental Health Division has no objections subject to the following conditions:-

- Restriction of Construction Hours
- Measures to achieve accepted internal and external noise levels
- Vibration assessment (in relation to passing trains)
- Control of external lighting
- Contaminated Land conditions, given proximity to historic landfill site

Landscape Development Section has no objections subject to:-

The recommendations within the submitted Tree Survey and Arboricultural Impact report, approval of tree protection plan, detail arboricultural method statement and detail of all special engineering within the root protection areas

Submission of a landscaping scheme to include street trees, boundary hedges, planting to front and rear gardens, the proposed sustainable drainage areas and the entrance area off Moss Lane.

The Landscape Development Section are also requesting a financial contribution toward future development/ improvement and maintenance of existing open spaces in the Parish and they have identified Madeley Pool and College Gardens as the appropriate sites to which such a contribution would be applied.

Waste Management section whilst raising concerns over the detail shown on the indicative plan submitted with application, the section are seeking full and precise details of the recyclable materials and refuse storage, including sufficient storage areas and collection arrangements.

Police Architectural Liaison Officer raises no objection to the proposal.

United Utilities raises no objections to the proposal advising of the need for suitable surface water draining in the most sustainable way, reducing the volume of surface water draining by the use of permeable paving and separate foul water drainage system.

Urban Vision Design Review Panel concludes that in principle as a location for housing development the site has a lot of advantages. It does not conflict with strategic local policy; it is well located in relation to the village centre and main facilities; and it would help sustain local services and businesses. At the same time the proposed development would have relatively little impact on the wider landscape.

However, the Panel thought that there are a number of principles that should be incorporated into the Design and Access Statement which would inform the final master plan for the site.

Some of these principles may require a reduction in the number of dwellings that can be accommodated on the site, although this may be redressed by changing the balance of house types.

Firstly, there is a need to deal more convincingly with the site's propensity to retain standing water, perhaps by creating a significant landscape or water feature with amenity and biodiversity benefits, and by providing a comprehensive sustainable drainage solution.

Secondly, the relationship of the development to the adjacent bungalows should be clarified by providing cross sectional drawings which show clearly what impact the houses nearest to them will have on their amenity.

Thirdly, the dwellings near to the north eastern boundary should be located to ensure that the protected trees on that boundary do not over-dominate the gardens of those dwellings and become a detriment to the amenity of residents.

Fourthly, the proposed layout should be amended to provide good connectivity with the village centre for all houses, including the affordable houses

Fifthly, the relationship of the development to the prospective development of the adjoining Council-owned site should be clarified by producing a combined indicative layout plan covering both sites.

Finally, a sustainable energy statement should be provided explaining how the design of the buildings and the overall site will help achieve reduced carbon emissions and reduce energy demand.

They advise and acknowledge that certain of the above design principles, and the associated recommendations set out below, are not required to be provided in detailed drawings with an outline planning application, and may be more appropriately taken into account by the use of planning conditions at this stage.

Their recommendations are:-

- A comprehensive sustainable drainage solution should be provided to deal with the tendency of the site to retain standing water, including the provision of a central water feature with amenity and biodiversity benefits.
- Cross sectional drawings should be produced which clearly show the relationship between the height of the proposed development and the adjoining bungalows along the north eastern boundary of the site.
- The master plan showing the indicative layout of the development should be amended to ensure sufficient space is provided around the protected trees along the north eastern boundary of the site so they do not over-dominate gardens and affect the amenity of occupiers.
- The amended master plan should provide good connectivity with the village centre and a good quality environmental setting for all dwellings in the development, including the affordable houses, with the more urban forms of development nearest to the village centre and the lower density parts nearest to the open countryside.
- The amended master plan should include the adjoining Council-owned land, in order to demonstrate how the two sites can be developed jointly and in a manner that satisfies the principles identified in this report.
- A statement should be provided explaining how the design of the development will help achieve reduced carbon emissions and reduce energy demand.

Staffordshire Wildlife Trust have advised they are not in position to provide any comments on the proposal due competing workload demands caused by additional work relating to the proposed HS2 route.

The Borough Council's **Housing Strategy Section** have been consulted and have not provided any comments on this application therefore it has to be considered they have no comment to make on the proposal.

Representations

158 letters of objection have received raising the following concerns:-

- The inadequacy of the width of Moss Lane to serve the development
- Existing parking issues in Moss Lane and The Bridle Path
- The lack of existing services in the area
- Flooding issues
- The capacity and issues with the existing sewer
- The application should be a full application rather than in outline
- The proposal should be refused unless there are clear overriding material considerations which justify the LPA in ignoring the policies in the Madeley VDS and the CSS
- A recent appeal decision (Bar Hil) considered the presumption in favour of sustainable development and the lack of 5 year housing supply did not outweigh the harm caused contrary to the relevant policies in the Local Plan
- Another decision (in West Sussex) where the Inspector dismissed an appeal for 100 houses on the grounds of poor layout and relationship to adjoining properties even though the Council could not demonstrate a five year supply
- No overriding material consideration in support of the application
- That the outline application is purely speculative
- Clear reasons should be given if the application is recommended for approval
- The site is a greenfield site
- The site is not in the village envelope.
- A lack of serious discussion with residents
- The density of dwellings is too high and does not reflect the density of the surrounding dwellings
- Potential changes to the route of HS2 which could severely impact upon the development site
- The photos presented by the developers are not representative and do not consider the wider impact on the village such as the 'Monument junction' near the Meadows School.
- There is no need for new housing in the area
- Devaluation of existing property

- Previous refusals setting precedence
- The use of soakaways
- Loss of views
- Ecological issues

Madeley Conservation Group has objected to the proposal in 2 letters on the following grounds:-

- No employment opportunities in Madeley
- Development of a Greenfield site
- Alternative sustainable sites in the urban area supporting services and employment
- No spare capacity in local schools
- No demonstrated need
- A number of existing properties for sale in the village
- Current pressures for a five year housing supply due to not enough sites being developed and the LPA should not rush into developing greenfield sites.
- Density – much greater than the existing surrounding area
- Emergency vehicles access – the proposal is served off one access
- Sewage and surface water flooding – the existing capacity of infrastructure
- Train noise – concerns regarding noise and vibration from the adjacent railway tracks
- Protection of existing residents on The Bridle Path – the development should respect the existing residents and their amenity
- The status of the application being outline although a detailed layout plan has been provided.

Madeley Action Group has objected to the proposal on the following grounds:-

- The site is a green field site.
- The site is not in the village envelope.
- It is a low lying area which has rainwater runoff from a much larger area.
- Concern with regard to the capacity of the sewer and drainage infrastructure.
- The highways and congestion at present is unacceptable and needs to be reviewed by independent experts with input from the affected residents.
- The lack serious discussion with residents.
- All matters should be reserved, including the number of houses and means of access.
- Including the number of houses only serves to increase the price of the land for sale to developers.
- The density of dwellings is too high and does not reflect the density of the surrounding dwellings.
- Potential changes to the route of HS2 which could severely impact upon the development site.
- The photos presented by the developers are not representative and do not consider the wider impact on the village such as the monument junction near the Meadows School.

Madeley Practice Patients Fund has objected to the proposal raising the following concerns:-

- The development would be detrimental to the locality as not being in keeping with the area.
- Concerns regarding highway safety and access as result of parked vehicles on the streets in the area.
- The proposal is not for the betterment of the village but purely for financial gain.

3 letters of support have been received making the following comments:-

- The proposal would contribute to the shortfall in housing numbers in a highly sustainable location.
- The success of three other sites in Madeley which were permitted against local opposition and these properties have been sold.
- The development low grade agricultural land.
- The site is sustainable in terms of its access to local services and public transport links.

Applicant/agent's submission

The application is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Highway Report including parking survey and sustainability report
- Flood Risk Assessment
- Ecological Survey and Impact Assessment
- Tree Survey
- Landscape and Visual Impact Report
- Noise Report
- Preliminary Ground Investigation Report

The applicant's agent has provided additional information in the form of a letter of interest from a housing developer who would wish to develop the site. The letter confirms there are no technical constraints which could not be overcome to deliver the site for residential development.

The applicant's agent has also made a representation in respect of the potential value of the development to the area in terms of the financial benefits it would attract, not only to recommended section 106 financial contributions totalling approximately £174,500, but also to the value of the affordable housing (circa £1 million) and the potential of securing New Homes Bonus totalling £378,000.

They have also clarified the extent of the access which is the subject of this application.

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

KEY ISSUES

1.1 Outline planning permission is sought for residential development of up to 42 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 layout plan 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 have to be agreed at the reserved matters stage if outline permission were granted.

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 application site, of approximately 1.65 hectares in extent, is within an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map, in the open countryside outside the village envelope of Madeley. The application site is not within the Green Belt but this is immediately to the north west of the site.

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 The Madeley Village Design Statement was prepared jointly by the Borough Council and the Parish Council in 1998, 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 16 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.

1.6 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?
- Is there conflict with development plan policy that seeks the enhancement of the landscape of which the site forms part of, and other landscape policies, and if so, what weight should be given to this?
- Would the proposed development have a significant adverse impact on the character and appearance of the village?
- Would the proposed development have any adverse impact upon highway safety?
- Is best and most versatile agricultural land lost as a result of the proposal?
- 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 there be any issue of flood risk or impact on sewage capacity?
- Will appropriate open space provision be made?
- What are the ecological implications of the development and are they acceptable?
- 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, but immediately adjacent to, the village envelope of Madeley, in the open countryside.

2.1 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. 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 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 most recently calculated 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). A more up to date figure to reflect the position as at 31st March 2014 will be calculated in due course (the process involves site by site visits to check completions, decisions on the inclusion of sites in the supply and the making of an assumption about windfall sites, and the taking into account of the national planning practice guidance issued on the 6th March 2014). Until this process is completed the Authority has to rely upon the currently published figure, which your officers are satisfied is robust, as there are no substantive grounds at present to consider that the picture will be materially different – i.e. the Borough will continue to be unable to demonstrate a 5 year supply allowing for an appropriate buffer as required by the NPPF. The applicant is entitled to a timely decision upon his application. If an update can be given it will be.

2.6. 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.

2.7 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.”* 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 housing being on land within the village envelopes of the key 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.

2.8 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.

2.9 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.

2.10 In sustainability terms, Madeley is one of the Rural Service Centres identified in the Core Spatial Strategy. The CSS identifies that such rural settlements are those that provide the most comprehensive range of essential rural services. The types and range of services and facilities available in Madeley, are, together with their locations, as follows:-

Primary School – Sir John Offley Church of England (Voluntary Controlled)
Secondary School – Madeley High
Doctors Surgery Moss Lane
Dental Practice Greyhound Court
The Madeley Centre offering a wide range of community facilities and activities
Places of Worship – All Saints Church Vicarage Lane / Methodist Church Poolside
Public Open Spaces – Madeley Pool / College Gardens
Post Office Newcastle Road
Pharmacy Newcastle Road
Convenience Stores – One Stop Poolside / Co-Op Morningside
Butchers Poolside

Newsagents Greyhound Court
Hairdressers Greyhound Court
Vehicle spares store Greyhound Court
Off License Greyhound Court
Public House - Offley Arms Poolside
Takeaways/Restaurant/Café - Greyhound Court/Poolside
Nearest Bus Stop Moss Lane
Nearest Post Box Moss Lane

The list above indicates a wide range of services and facilities are available within Madeley, justifying its status within the Core Spatial Strategy as Rural Service Centre, where a greater level of services and facilities can be found.

2.11 The matter of sustainability of development was recently highlighted in an appeal case on Bar Hill, Madeley where the application was refused for two reasons - unsustainable location and harm to the appearance of the open countryside. At appeal the Inspector saw no merit in the LPA's case that that site was unsustainable – the site being approximately 500 metres from the boundary of the Madeley village envelope unlike this current proposal which abuts the village envelope. He commented that from the evidence submitted and his own observations he was of the view that the distances between the appeal site and local services, shops and public transport were such that walking and/or cycling would not inevitably be discouraged and that the proposal before him represented sustainable development. He dismissed the appeal for another reason.

2.12 The site is greenfield. As indicated CSS SP1 refers to “new development being prioritised in favour of previously developed land”, but given the position indicated above, as a policy on the supply of housing it must be considered to be out of date at least until there is once again a five year housing supply. The location of the application site, relatively close to the services and facilities in the village of Madeley, all are indicative that this is a location where sustainable development can be achieved.

2.13 The issue of the transportation aspect of sustainability is explored further later on in the report, but it is not unreasonable to conclude that there is a presumption in favour of the development at this location, although appropriate weight needs to be given in particular to any conflict with landscape policies contained within the development plan, and any other policies which do not relate to the supply of housing. For this reason the report next considers that to be the first issue to be considered.

3. Is there conflict with development plan policy that seeks the enhancement of the landscape of which the site forms part of, and other landscape policies, and if so, what weight should be given to this?

3.1 The site forms part of the Area of Landscape Enhancement (saved NLP policy N20). This policy states the Council *will support, subject to other plan policies, proposals that will enhance the character and quality of the landscape.*

3.2 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.

3.3 The NPPF in paragraph 109 advises the planning system should contribute to and enhance the natural and local environment by, amongst other headings, protecting and enhancing valued landscapes. It is considered the above NLP and CSS landscape policies are not in conflict with the more recent advice found within the NPPF.

3.4 Supplementary Planning Guidance on Planning for Landscape Change to the former Staffordshire and Stoke-on-Trent Structure Plan, which was adopted in 2001, identifies the site as lying between Areas of built character and Ancient Clay Farmlands landscape character type. It states that the latter area is characterised by the irregular pattern of hedged fields with ancient hedgerows and oaks, by

subtle evidence of former heathland, and by a dispersed settlement pattern with small rural towns. The SPG was used in the NLP to set policies for landscape consideration.

3.5 As the NPPF indicates due weight should be given to policies in existing development plans (those adopted prior to the publication of the NPPF in March 2012) 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).

3.6 The designation of the site as part of an Area of Landscape Enhancement cannot, given the actual wording of the policy, be read as preventing development of the site. That said it is appropriate to consider how the proposal performs in terms of the Landscape policy – does it make a positive contribution towards landscape enhancement?

3.7 The application site is bounded by existing hedgerows together with an intermittent internal hedgerow within the site. The site is not readily seen from any public vantage point, other than from Bower End Lane, and footpaths leading down from Moor Hall Farm and even then views are filtered by intervening trees and hedges and the site has the backdrop of the existing village built form together with the main West Coast railway line to the south west of the site, albeit the railway line is in a cutting at this point adjacent the application site.

3.8 As stated above the applicants have an indicative layout plan in their submission and whilst this detail does not form part of this outline application it provides the decision maker with a useful reference document to see how the site could be developed.

3.9 This indicative plan shows the intention to retain the existing hedgerows around the site boundary together with three protected oaks on the north eastern boundary of the site adjacent to the existing properties on The Bridle Path. Whilst there are no specific details at this stage the indicative layout shows there are opportunities to provide additional landscaping within the site itself. The Landscape Development section has not raised an objection to the proposal and is recommending the provision of a landscaping scheme to include street trees and landscaping around the site entrance.

3.10 The applicants have provided a Landscape and Visual Appraisal, which concludes the proposed development would not cause unacceptable visual harm and it would make a positive landscape improvement by providing opportunities for new areas of landscaping.

3.11 The Urban Design Review Panel acknowledge in their report that the proposed development would have relatively little impact on the wider landscape.

3.12 In conclusion the proposal would be an encroachment into the landscape surrounding Madeley, given it involves the development of a greenfield site, albeit one having a backdrop of the existing village built form and the West Coast railway line. The development provides the opportunity to create, retain and enhance other landscape features. Overall, subject to conditions regarding proposed landscaping, it is not considered that the proposed development would have such an adverse impact on the character or quality of the wider landscape to justify a refusal. In any case any element of harm identified has to be weighed in the balance against the benefits associated with the development, and this is considered later in the report.

4. Would the proposed development have a significant adverse impact on the character and appearance of the village?

4.1 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.

4.2 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.

4.3 The site is located on the edge of Madeley. It is bounded by existing dwellings on its north and eastern boundaries on The Bridle Path and Moss Lane. On its southern boundary is a 3 metre embankment marking the extent of a former landfill site and beyond its western boundary is farm land rising to the west.

4.4 The application site gently slopes down from the north to the south typically 3.5 to 4 metres over a distance of approximately 100 metres.

4.5 Whilst this proposal seeks outline planning permission for residential development with all matters reserved for subsequent approval with the exception of the means of vehicular access into the site, the applicants have submitted an indicative layout plan and indicative street elevations. The applicants have provided this with their submission to demonstrate how they envisage the development of this site could be achieved and demonstrating that up to 42 dwellings could be provided on the site with an acceptable density. The density proposed is similar to the adjacent existing residential area. Whilst not forming part of the application to be determined, the indicative layout plan does provide a useful guide to the decision maker.

4.6 The indicative layout shows the proposed vehicular access from Moss Lane serving an indicative internal road network laid out.

4.7 The submission also includes some indicative elevational details and proposed cross section for the proposed residential development and whilst not forming part of the formal submission to be considered at this stage they do give the decision maker an opportunity to understand how the site could be developed in the future to accommodate residential development showing differing house styles with varying roofscapes and the use of palette of different surface materials finishes.

4.8 Whilst purely indicative the layout plan demonstrates that the development would not have to conflict with the Borough Council's adopted space about dwellings supplementary planning guidance (to achieve this scale of development).

4.9 Urban Vision Design Review Panel have provided a number of recommendations and as they advise a number of these could be controlled by the imposition of condition to any approval. The one exception to this would be the recommendation regarding the potential for the future development of the adjacent Council owned land fronting Bower End Lane. This land does not form part of this current application and it is considered that the current application can be determined independently given it is considered that if this additional land ever became available for development in future a suitable scheme could be developed on the adjacent site in all scenarios – that is if the current application site is granted or refused planning permission or it could be developed jointly if circumstances allowed.

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

5.1 This application is for outline planning permission with all matters of detail reserved for subsequent approval with the exception of the means of vehicular access to the application site from

the existing highway network. The internal on site access arrangements are not part of the submission. The applicant's agent has provided for consideration at this stage details of the extent of the vehicular access from the public highway on Moss Lane into the site to the approximately the rear boundary of the adjacent Rowley House.

5.2 The proposed single vehicular access would be taken off Moss Lane between the existing detached properties on Moss Lane. Planning permission has recently been granted for a new house in the grounds of Rowley House and account has been taken of its approved access arrangements in the assessment of this application..

5.3 The development would obviously increase the useage of Moss Lane and would place demands on its junction onto Poolside (A525). This one of the main concerns raised by the letters of objection. Moss Lane and the adjacent road known as The Bridle Path are subject to some on-street parking issues which appear to occur during the surgery hours of the nearby Doctors Surgery. The application is supported by a parking survey although the validity of this is questioned by some of the objectors. This situation seems to be a transient problem occurring at certain times of the day. Whilst this issue is a material consideration in the determination of the application it is considered it would not be made any worse by the development of the application site for residential purposes. Indeed residents of the new development would be most unlikely to use their cars to access the surgery facility given its proximity.

5.4 The application is also supported by Highway Report and a Sustainability Report. The latter demonstrates the site is a sustainable location in easy reach of surrounding services and facilities.

5.5 Paragraph 32 of the NPPF advises that decisions should ensure that safe and suitable access to development sites should be achieved for all people but also that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

5.6 The Highway Authority has not raised an objection to the proposal subject to a number of conditions.

5.7 Given the conditional support of the Council's technical advisers on highway matters – the Highway Authority for the area - and the advice found within the NPPF it is considered there are no sustainable reasons to resist the proposal on highway grounds.

6. Is best and most versatile agricultural land lost as a result of the proposal?

6.1 The application is not supported by a field survey based assessment of the quality of the agricultural land involved. Examination of the large scale Agricultural Land Classification map suggest that the site is Grade 3. Best and most versatile agricultural land however consists of Grade 1, 2 and 3a land. Whether the site is Grade 3a or 3b is not indicated on the large scale map and in practice only a field survey can determine agricultural land quality. However the condition of the site, its shape and contours is all strongly suggestive of a site that is not of "best and most versatile quality" so this issue has not been pursued any further.

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

7.1 New residential development will placed pressure on existing schools in term of pupil numbers and it is considered appropriate to consider whether it is appropriate to seek a financial contribution to fund additional spaces.

7.2 The County Council has a statutory duty to ensure the sufficient supply of school places, from nursery age through to post-16 and is responsible for promoting a diverse range of schools to achieve these objectives. A key part of this is securing education contributions from residential development schemes where there is projected to be insufficient places available for the pupils generated by the development.

7.3 Staffordshire County Council as the Education Authority, advises the development site falls within the catchments of Sir John Offley CE(VC) Primary School, The Meadows Primary School and Madeley High School. The development is scheduled to provide 42 dwellings. Excluding the 10 RSL dwellings from secondary only, a development of 32 houses including 10 RSLs could add 9 Primary School aged pupils, 5 High School aged pupils and 1 Sixth Form aged pupil.

7.4 They have requested an education contribution for a development of £49,866 based on the 3 secondary school places.

7.5 The comments are made based on the development providing 42 dwellings and if that number were to be different, a revised calculation will be necessary.

7.6 The number of children attributable to the proposed housing and the contribution per pupil place has been calculated using the methodology set out within Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated for 2008/09.

7.7 The applicant has anticipated the need for further school spaces as a result of the development in their submission indicating their willingness to make a financial contribution via a section 106 obligation.

7.8 The statutory tests in the CIL Regulations which planning obligations must pass require that a planning obligation should be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

The calculations have a clear and reasonable rationale and it is considered that the CIL tests are met. Accordingly the education contribution sought is considered reasonable.

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

8.1 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. With a maximum of 42 dwellings this would therefore equate to approximately 10 dwellings.

8.2 The Affordable Housing Supplementary Planning Document specifies the detailed requirements of the make up of the units with the following as a general principle,

8.3 Developers would be expected to provide the affordable housing within a development across the same range of housing types as the market housing on a pro rata basis.

8.4 In terms of the tenure mix of the affordable housing, a policy compliant scheme would provide approximately 6 social rented units and approximately 4 shared ownership units (based on 42 units being provided on the site).

8.5 The applicants' agents in their submission advises that the applicant will enter into an obligation to provide up to 25% of the dwellings for affordable housing in line with the adopted Supplementary Planning Document and Policy CSP6 of the CSS. The indicative layout drawing shows 10 affordable units being provided on site albeit not in a tenure blind arrangement as required by the SPD. They also advise that interest in delivery these affordable units has been received from a local Registered Social Landlord.

8.6 The statutory tests in the CIL Regulations which planning obligations must pass require that a planning obligation should be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

The level of affordable housing is policy compliant and it is considered that the CIL tests are met. Accordingly the affordable housing provision sought is considered reasonable.

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

9.1 A Flood Risk Assessment (FRA) submitted to accompany the application advises the whole of the site is within Flood Zone 1 being an area of low probability (of flooding). Development within Flood Zone 1 area is the preferable option when considered in context of the sequential test found in the National Planning Policy Framework.

9.2 The development proposes sustainable drainage options including SUDS areas.

9.3 A number of objections received have raised concerns regarding the land flooding and the land being waterlogged for a large part of the year and concerns regarding sewer capacity.

9.4 The Environment Agency has no objections to the proposal subject to conditions relating the sustainable drainage principles and contaminated land conditions. Subject to the imposition of conditions, it is not considered that an objection could be sustained on the grounds of flood risk.

9.5 Concerns have been raised regarding sewage capacity. However the relevant statutory undertaker – United Utilities – have not expressed any concern on this point in their response to this application – and in any case they are under a statutory duty to make provision if a developer seeks to connect to the public drainage system.

9.6 United Utilities has no objections to the proposal subject to conditions relating to the need for suitable surface water draining in the most sustainable way, reducing the volume of surface water draining by the use of permeable paving and separate foul water drainage system, it is not considered that an objection could be sustained on the grounds of sewer capacity.

10. Will appropriate open space provision be made?

10.1 Local Plan Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing. The threshold for this is 10 or more dwellings or a site area of 0.4 hectares or more. The policy advises where no open space provision is being made on site the developer will be invited to make a financial contribution.

10.2 The NPPF advises developments should optimise the potential of sites to accommodate development, create and sustain an appropriate mix of uses, including public open spaces (paragraph 58), it also advises the local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (paragraph 203) it is considered policy C4 is compliant with the up to date advice within the NPPF and therefore is able to be given the appropriate weight.

10.3 Policy CSP5 of the CSS states that the plan area's open space, sports and leisure assets will be enhanced, maintained and protected by a number of measures.

10.4 Given no on-site open space is being proposed, the Landscape Development Section are requesting a financial contribution for off-site open space improvements in the order of £2943 per dwelling, this contribution if secured would be proposed to be used for improvements to existing facilities in the Madeley area.

10.5 The Landscape Development Section has advised any contribution secured would be spent on improvements to land around Madeley Pool and College Gardens. Given the physical proximity of these sites to the proposal site, and the nature of the works proposed, such contributions would, in

your planning officer's opinion be consistent with the provisions of the NPPF and meets the tests of the CIL Regulations.

11. What are the ecological implications of the development and are they acceptable?

11.1 The application is supported by an Ecological Walkover Survey. This survey does not identify any protected species and their habitat either across the site or within a 30 metre buffer of it, identifying the hedgerows around the site as being the most valuable ecological asset of the site, which remain.

11.2 The survey provides a number of recommendations and it's considered prudent to attach a condition requiring those recommendations to be fully implemented as part of any approval.

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 limited local impact on the landscape around the village and the local highway network. However, the proposal represents sustainable development which would make a significant contribution towards addressing the undersupply of housing in the Borough.

12.2 The applicant's agent has provided additional information in respect of the financial benefits of the development in addition to the suggested section 106 obligation financial contributions totalling approximately £173,500, namely the value of the affordable housing (which he estimates at circa £750,000 - £1 million) and the potential of securing New Homes Bonus totalling £378,000. Both are material planning considerations which the LPA have to take into account in this decision.

12.3 The New Homes Bonus, introduced in April 2011, is a grant paid by central government to local councils for increasing the number of homes and their use. The value of the New Homes Bonus as quoted by the applicant's agent has been confirmed as being correct.

12.4 The stated value of affordable housing element of the proposal has not been substantiated and is unlikely to be by the time of the consideration of the application (a full financial appraisal would be required to do this). However it is not unreasonable for the applicant to refer to the provision of 10 affordable dwellings as a benefit that should be taken into account, even though it is required to make the development policy compliant. The other contributions are required to meet needs arising from the development so your officer's view is that weight should not be given to them as 'benefits'.

12.5 That the owner may be close to disposing of the site to a developer, and the stated intentions of that developer, is material to the decision insofar as it provides a measure of confidence to the Authority that should planning permission be granted for this site, the housing will be delivered and thus make a contribution to addressing the issue of the lack of a 5 year housing land supply.

12.6 In summary the limited adverse impacts of this sustainable development would not significantly and demonstrably outweigh the benefits of the proposal. 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

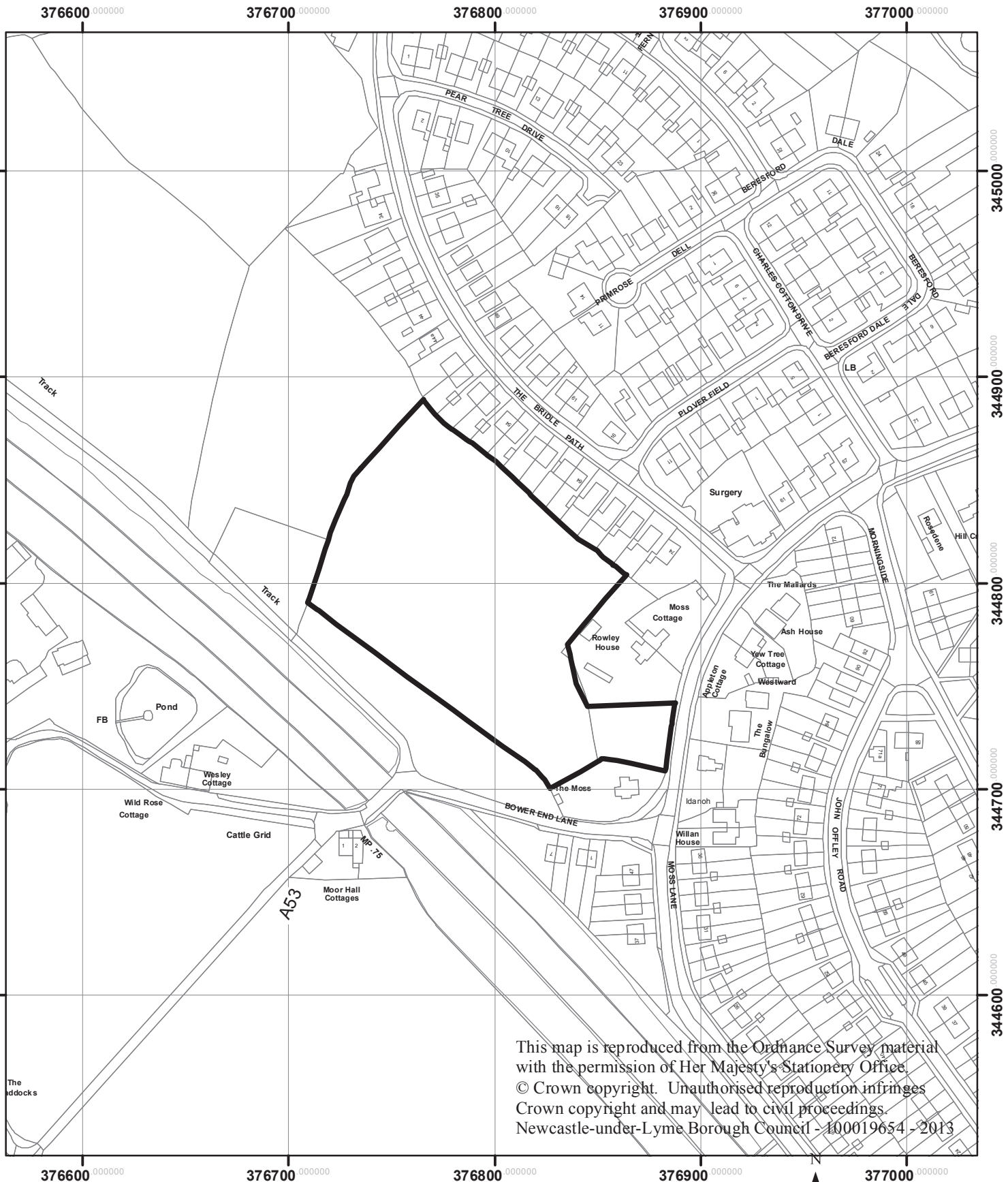
8th April 2014

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Land to rear of Rowley House, Madeley



13/00990/OUT



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Newcastle-under-Lyme Borough Council - 100019654 - 2013

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GREAT OAK, LAND AT BIGNALL END, NEWCASTLE
UK COAL SURFACE MINES LIMITED

14/00128/CPO

This a consultation by the County Council as the Minerals Planning Authority on an application for surface coal mining to extract up to 450,000 tonnes of coal and fireclay and the subsequent restoration of the site to agriculture, nature conservation, woodland and public access over a period of two and half years, within which period coal extraction will be completed within 15 months. The County Council's reference is N.14/03/2013 M.

The site area measures 80 hectares in total, with area of coal extraction measuring 29 hectares with the remainder of the site accommodating top soil and subsoil storage mounds; overburden storage; water treatment areas; site offices; plant areas; coal and fireclay processing and storage areas; site access and haulage roads. Access to the site is from the A34 to the north of the A34/A500T Talke junction via Talke Road to the north of Red Street.

A number of public footpaths cross the site which will be closed during the duration of the operations and diverted for a temporary period, with the exception of one of the footpaths which will be permanently diverted.

The site is within the Green Belt; the majority of the site is within an area of landscape restoration and the remainder in an area of landscape enhancement; and contains a Site of Biological Importance all as identified on the Local Development Framework Proposals Map. The site is in the vicinity of the Wedgwood Monument, a Grade II listed building and well known viewpoint. In addition trees and a woodland within Tree Preservation Order No. 1 are found within the site.

For any comments that the Borough Council may have on this proposal to be taken into account, they have to be received by the County Council by no later than 23rd April 2014.

RECOMMENDATION

1) That the County Council be informed that the Borough Council considers that the proposal involves inappropriate development in the Green Belt and that planning permission should only be granted if the County Council are satisfied that the economic benefits of the development outweigh the harm to the openness and the visual appearance of the Green Belt that arises temporarily as otherwise the required very special circumstances will not exist. In addition careful consideration should be given to the consultation response of the Environmental Health Division and that planning permission should only be granted if the County Council are satisfied that the environmental issues, from dust, noise and particle emissions can be suitably addressed.

The Borough Council consider that very special circumstances that justify inappropriate development will not exist, without the security of a financial bond through a Section 106 Planning Obligation by agreement that can be called upon to complete the restoration of the site if necessary. Such a bond is also justified on the basis of the harm to the setting of the listed Wedgewood Monument that arises as a result of the proposed extraction.

The Borough Council request that planning permission should be refused if the County Council are not satisfied that the proposed development takes all suitable and necessary precautions to avoid disturbance to the remains of any casualties of the Diglake Colliery disaster that may lie in the former workings.

If the County Council are minded to permit the application conditions relating to the following should be imposed;

- All conditions to secure appropriate mitigation measures as recommended by the Environmental Health Division.
- A routing agreement for vehicles.
- All existing trees on boundaries and in undisturbed areas within the site to be retained and protected during the works.
- All recommendations of the Arboricultural Survey Report to be followed.
- Submission of a Tree Protection Plan and Arboricultural Method Statement to BS5837:2012;
- Submission of detailed restoration proposals including landscaping and planting proposals and a forward programme for planting management and establishment.

Consideration should also be given to securing a significant financial contribution toward the restoration of the Wedgewood Monument, provided the County Council considers that such a contribution would meet the requirements of Section 122 of the CIL Regulations.

2) The Borough Council requests that in the event of a Health Impact Assessment being submitted, it be consulted upon such an assessment.

3) If the Borough Council is consulted upon such an assessment, that the Head of Planning and the Head of Environmental Services be authorised to respond to it on behalf of the Borough Council

Reason for Recommendation

The proposal involves inappropriate development in the Green Belt as it would have an impact on its openness until restoration works are completed. The County Council will have to decide whether the economic benefits of the development outweigh the harm arising to the character and appearance of the landscape and the setting of the listed Wedgewood Monument; that environmental impacts can be suitably mitigated and that no highway safety issues arise that cannot be appropriately addressed, to be satisfied that very special circumstances exist to justify the granting of planning permission. Such very special circumstances would not exist if a financial bond is not secured through a Section 106 Agreement to enable completion of the restoration works if not carried out by the developer. Planning permission should be refused if they are not satisfied that the proposed development takes all suitable

and necessary precautions to avoid disturbance to the remains of any casualties of the Diglake Colliery disaster that may lie in the former workings.

Conditions are necessary to mitigate against the impact of the development should the County Council be minded to permit.

Policies and Proposals in the approved development plan relevant to this matter: -

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

Policy CSP1: Design quality
Policy CSP2: Historic environment
Policy CSP4: Natural assets
Policy CSP10: Planning obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt
Policy N3: Development and nature conservation – protection and enhancement measures
Policy N4: Development and Nature Conservation – Use of local species
Policy N12: Development and the protection of trees
Policy N13: Felling and pruning of trees
Policy N14: Protection of landscape features of major importance to flora and fauna
Policy N17: Landscape Character – general considerations
Policy N20: Areas of landscape enhancement
Policy N21: Areas of landscape restoration
Policy B5: Control of development affecting the setting of a listed building

Staffordshire and Stoke-on-Trent Minerals Local Plan 1994-2006 (MLP)

Policy 9 Site restoration and aftercare
Policy 10 Use of legal agreements
Policy 12 Impact on sensitive development
Policy 19 Effects on areas of special interest
Policy 20 Requirement to conserve features of natural or cultural conservation value, and replace habitats or features damaged or lost.
Policy 21 Development to be informed by and sympathetic to landscape character and quality
Policy 31 Legal agreements and mitigation of off-site traffic effects

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (2012) (NPPF)

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

Relevant Planning History

Views of consultees

It is the responsibility of the County Council to carry out consultations on this application. Notwithstanding this the **Landscape Development Section** has been consulted by your Officer and the following comments have been received:

- Trees and a Woodland within the site are included in Tree Preservation Order no. 1. They are shown to be retained.

- An Arboricultural Impact Assessment has not been provided, however it is considered that the proposals satisfactorily avoid the majority of existing trees and comparatively few principal trees would be lost, and that the restoration proposals provide adequate mitigation. Trees to be lost of most significance are 7 category 'A' trees in the fields to the south of Woodlands Farm which are visible from 3 public footpaths and to some extent from Bignall End Road.
- All existing trees on boundaries and in undisturbed areas within the site should be retained and protected during the works.
- All recommendations of the Arboricultural Survey Report should be followed.
- Permission should be subject to submission of a Tree Protection Plan and Arboricultural Method Statement to BS5837:2012 and submission of detailed restoration proposals including landscaping and planting proposals and a forward programme for planting management and establishment.

Response to Publicity concerning the application

It is the responsibility of the County Council to publicise this planning application, and any resultant representations are sent to them.

Applicants' submission

The following documents are provided with the application;

- Planning Supporting Statement
- Statement of Community Involvement
- Environmental Statement which includes a hydrogeological desk study; a geotechnical report; a landscape and visual impact assessment; an ecological assessment; a noise report; blasting report, air quality and dust report; agricultural land use and soils assessment; contaminated land study; a heritage assessment; a Flood Risk Assessment; and a review of the Diglake Colliery Disaster.
- Non Technical Summary

These documents are available to view on the Staffordshire County Council Planning web page www.staffordshire.gov.uk/planning. Either access them via 'applications making the headlines' or go to the application register, enter the County Council reference number N.14/03/2013 M and click on the 'documents' tab.

Key Issues

The planning application to be determined by the County Council is for surface coal and fireclay extraction over an area of 29 hectares within a site which in total measures 80 hectares. The proposal involves the formation of top soil and subsoil storage mounds; overburden storage mounds; water treatment areas; site offices; plant areas; coal and fireclay processing and storage areas; site access and haulage roads. Access to the site is from the A34 to the north of the A34/A500T Talke junction via Talke Road to the north of Red Street.

The site is within the Green Belt; the majority of the site is within an area of landscape restoration and the remainder in an area of landscape enhancement; and contains a Site of Biological Importance as identified on the Local Development Framework Proposals Map. The site is in the vicinity of the Wedgewood Monument, a Grade II listed building.

The Borough Council is being asked for its views on this proposal – the County Council being the Mineral Planning Authority and determining body for such an application. The Borough Council's Planning Committee, with respect to "major developments", has the authority to decide what comments are to be put to the County Council with respect to planning applications being considered by the County.

In deciding what representations to make the first consideration for this Council is normally whether the proposal has an impact upon any particular interests of the Borough Council (such as land in its ownership). Whilst the Borough Council has a considerable property portfolio, it is not considered that any land ownership or other similar interests will be directly affected by the proposed development.

Beyond that interest members might usually wish to consider whether any aspect of the development has a particular bearing upon the amenity of residents of the Borough, and to comment upon whether the proposal appears to conflict with any policies within that part of the development plan or for which the Borough Council is the responsible Planning Authority, and upon whether the proposal has any bearing upon the strategic aims of the Council – a clean, safe and sustainable borough, a borough of opportunity and a healthy and active community.

The Borough Council's role is simply that of a consultee – it is not the decision maker.

Policy S3 of the Local Plan (NLP) indicates that there is a presumption against any form of development in the Green Belt although certain exceptions are identified. Mineral extraction is not listed within the NLP. The NPPF indicates at paragraph 90 that mineral extraction is not inappropriate in Green Belt provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Whilst only for a temporary period the formation of mounds to store top soil, subsoil and overburden, extracted minerals, and the siting of offices would have an impact on openness and as such it is concluded that the development is inappropriate in the Green Belt and as such it should not be approved except in very special circumstances.

Paragraph 144 of the NPPF states that when determining planning applications Local Planning Authorities (LPAs) should, amongst other things give great weight to the benefits of the mineral extraction, including to the economy. It will be a matter for the County Council as the Minerals Planning Authority to assess whether such benefits, and any other benefits arising from the extraction of the minerals at this site, outweigh the potential harm to the Green Belt. Notwithstanding this consideration will be given to the impact of the development on the amenity of residents.

The proposed extraction, which involves some limited blasting, will result in noise, dust and particle emissions in relatively close proximity to residential properties. In light of this the proposal is supported by a Noise Impact Assessment and other assessments which concludes that noise from the proposed site operations will not cause an unacceptable impact if appropriate mitigation measures are implemented. The Environmental Health Division of this Council will be assessing the adequacy of the submissions in this regard having been consulted by the County Council. Their views are not yet known but it is appropriate to request that the County Council take their expert advice fully into consideration in their assessment of the impacts of the proposal.

It is also understood that the applicant will, at the request of the County Council, be submitting a Health Impact Assessment. which draws together health related impacts and includes additional information relating to local health statistics. It would be appropriate for the Borough Council to be given an opportunity to comment upon such an assessment.

In addition to residential amenity issues the proposal raises issues relating to visual amenity. As indicated above part of the site (that to the east of the disused railway line) is within area of landscape restoration and the remainder (that to the west of the disused railway line) is in an area of landscape enhancement. NLP Policy N21 relates to areas of landscape restoration, and indicates that proposals that will help to restore the character and improve the quality of the landscape will be supported, *subject to other plan policies*. NLP Policy N20 relates to areas of landscape enhancement and indicates that, *subject to other plan policies*, the Council will support proposal that will enhance the character and quality of the landscape. Both policies include a requirement that within the area in question it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The extraction of coal will have significant impact on the existing landscape prior to the site's restoration and will further erode the character and quality of the landscape at least for a temporary period and as such it is difficult to conclude that the proposal accords with either NLP policy N21 or NLP Policy N20. The submission, however, seeks to demonstrate that the proposed restoration to a predominantly agricultural use will result in a landscape which is broadly similar in character to that which existed prior to the development in the short to medium term. In the long term the Landscape and Visual Impact Assessment concludes that the restoration will be moderately beneficial subject to careful management of the restored landscape. Your officer has no basis upon which to disagree with such conclusions.

In responding to a consultation this Council's Landscape Development Section indicates that trees protected under a Tree Preservation Order will be retained, that relatively few trees that have been assessed to be the most significant, category 'A' trees, will be lost (7 in total) and that the proposals avoid the majority of existing trees. The retention of trees will assist in the restoration of the landscape as any new tree planting will be viewed in the context of existing mature trees.

It is considered in this instance that the harm to the Green Belt that arises from the inappropriate nature of the development that the necessary very special circumstances to justify the development could not be considered to exist without an appropriate mechanism to secure restoration.

In addition the proposed extraction is relatively close in landscape terms to the Wedgewood Monument, a Grade II listed building. The nearest extraction area is just under 300 metres from the monument, whilst the offices, coal processing and plant bay area is at its closest some 250 metres from the monument albeit there is a significant part coniferous part deciduous intervening woodland. The monument, or rather its reduced part, stands in elevated position and the nearer parts of the extraction areas would not, because of the landform, be visible from the monument – which is also a significant local viewpoint..

The monument's function depends upon its extensive landscape setting. Your Officer's view is that appropriate regard has been paid to the immediate setting of the structure, in terms of the areas to be opencasted, However the opencast operation will still have an adverse impact on the wider setting of that listed building until the site is restored – particularly in views from Talke Road westwards (where the plant and coal storage areas will be in foreground), from the south west (Bignall End) and west (Great Oak Road) and certain (admittedly currently limited) views from the A500 for eastbound vehicles.

Whilst the NPPF states that bonds should only be sought in exceptional circumstances such impacts justify, in the opinion of your Officer, additional security in the form of a Section 106 agreement that secures a financial bond, at an appropriate level, that can be called upon if the developer cannot complete the restoration of the site.

Furthermore given the harm to its setting, the County Council and the applicant should be encouraged to consider securing a significant financial contribution toward the restoration of the Wedgewood Monument, provided the County Council considers that such a contribution would meet the requirements of Section 122 of the CIL Regulations.

A suitable routing agreement should be secured to ensure that highway safety and amenity issues don't arise as a result of large vehicles accessing the site other than from the most direct route to the strategic highway network, the A34 and A500(T).

Finally the site is in close proximity to the site of the Diglake Colliery Disaster which resulted in the deaths of 77 men and boys, of which only 5 bodies have ever been recovered. It is important that the remains of the casualties of the Disaster are not disturbed by the proposed extraction. The submission suggests that proposed extraction will be at an appropriate stand-off distance from the Diglake Mine workings to avoid any such disturbance and your officer does not have any information that could challenge such conclusions. It will be for the County Council to fully consider this matter however it should be requested that planning permission be withheld if County Council consider that there is any risk of disturbance of the remains of all the casualties of the Disaster.

Background Papers

Planning file
Planning Documents referred to

Date report prepared

10th April 2014

THORP PRECAST LTD, UNIT G1, APEDALE ROAD, CHESTERTON
THORP PRECAST LTD

14/00140/FUL

The application is for full planning permission for the change of use of an existing building from Use Class B1 (business) to Use class B2 (General Industry), completion of cladding to the existing building and extension to the existing palisade fencing, extension to the vehicular access provision and additional landscaping and alteration to previous approved landscaping.

The application site is located within the urban area of Newcastle-under-Lyme and partially is within the area covered by saved Local Plan Policy E9 (relating to employment uses) as indicated on the Local Development Framework Proposals Map.

The proposal would be accessed off Apedale Road.

The 13 week period for the determination of this application expires on 28th May 2014.

RECOMMENDATION

Permit the application, subject to conditions relating to the following matters:-

- 1. Standard Time limit**
- 2. Approved plans/drawings/documents**
- 3. Landscaping Scheme including full schedules and specifications**
- 4. Approval of a landscape management plan including weed control and litter picking measures**
- 5. Approval of any external lighting scheme**

Reason for Recommendation

The principle of employment use on this site has been established by its existing lawful use and the established employment uses of the surrounding sites. Suitable mitigation measures have been submitted which reduce the visual impact of the proposal on the surrounding area, These mitigation measures can be secured and maintained through the imposition of conditions, the development accords with the provisions of the development plan and there are no other material planning considerations that would justify refusing the proposed development.

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

During the course of the consideration of the application the Council sought amendments to the proposals to ensure that the development is carried out in an acceptable and appropriate manner and has followed the guidance in paragraphs 186-187 of the National Planning Policy Framework on the approach to be adopted.

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)

Strategic Aim 5 (SA5): To foster and diversify the employment base of all parts of the plan area, both urban and rural, including development of new types of work and working lifestyles, and supporting the office development sector, new technologies and business capitalising on the inherent advantages of North Staffordshire.

Strategic Aim 16 (SA16): To eliminate poor quality development and establish a culture of excellence in built design by developing design skills and understanding, by requiring good, safe design as a universal baseline and distinctive design excellence in all development proposals, and by promoting procurement methods which facilitate the delivery of good design.

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy E9 (2): Renewal of Planning Permissions for employment uses
Policy T16: Development – General Parking Requirements
Policy T18: Development – Servicing Requirements

Other material considerations include:

National Planning Policy Framework (NPPF) (March 2012)

National Planning Practice Guidance (March 2014)

Supplementary Planning Guidance

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)

Relevant Planning History

08/00664/COU Change of use from B1 to B2 (General Industrial) - approved

There have been a number of planning applications which relate to the applicant's adjoining site for the existing business use over the last 9 years including for a gantry crane, storage building, office building and manufacturing building. Most recent permission 13/00157/FUL permitted last year for a gantry crane and associated works.

Views of Consultees

The **Landscape Development Section (LDS)** initially objected to the proposal being of the opinion that the proposed alterations to the approved landscaping of the crane are unacceptable, unless further revisions are made.

Following the submission of further information relating to the landscaping of the site LDS now raises no objections to the proposal subject to conditions relating to:

- Approval of detailed landscaping proposals including full schedules and specifications.
- Approval of a landscaping management plan to include proposals for litter removal and weed control.

The **Environment Agency** has no objection to the proposal and makes comments in respect the protection of controlled waters.

The **Highway Authority** has no objections to the proposal.

The **Environmental Health Division** has no objections subject to control over external lighting.

The views of the **Greater Chesterton Locality Action Partnership** have been sought, and as the date by which any comments were sought has passed without comment, they must be assumed to have no observations to make upon this application.

Representations

None received

Applicant/agent's submission

Apart from the requisite forms and plans the application is supported by

- Design and Access Statement
- Details of the machinery to be used

The applicant's agent has provided an amended landscaping plan showing additional landscaping areas to the application site.

The full versions of these documents are available for inspection at the Guildhall, and on www.newcastle-staffs.gov.uk/planning/ThorpPrecast

KEY ISSUES

This application seeks full planning permission for the change of use of existing building from Use Class B1 (Business) to Use Class B2 (General Industry), completion of cladding to the existing building and extension to the existing palisade fencing and extension to the vehicular access.

Members will recall a planning application (13/00157/FUL) last year from the same applicant, on the adjacent site, for a large gantry crane and associated works, which was permitted. Since that permission the applicant has purchased the site the subject of this application to expand their business and operation further.

The business involves the manufacturing of large precast concrete products for the building industry. The application details indicate the existing business employs approximately 74 persons and if permitted the proposal would allow 16 additional persons to be employed as well as safeguarding the existing jobs.

The building the subject of the change of use and additional cladding has a floor area of approximately 2010 square metres and is of a traditional portal framed construction with brick cladding on the front elevation with light grey profile sheeting to the other elevations which will include the additional cladding on the rear of the building.

The proposal also includes extending the existing access road serving the unit to continue into the remainder of the applicant's site to the west and north. It is understood this access will become the main day to day access to this application site as well as the applicant's existing site. However the applicant is proposing to retain the access permitted by 13/00157/FUL which has a larger radii onto Apedale Road and is adjacent to the new gantry crane area.

The proposal also proposes to provide some additional planting, as well as an amendment to some previously approved planting on the adjacent site.

Given the existing lawful use of the site, the neighbouring premises having similar uses, a previous planning permission now lapsed for the same change of use, and the lack of any material change in the relevant material considerations, it is considered the principle of the proposed change of use would be acceptable.

A small part of the site is identified on the Local Development Framework Proposals Map as subject to saved Local Plan policy E9 (2) which relates to the renewal of planning permissions for employment development. This policy generally supports employment uses of the identified site, however, specifically to this area it requires that any viable reserves of Etruria Marl are safeguarded and a nature conservation study should be undertaken.

Therefore, the main issues to consider with this application are:

The safeguarding of mineral reserves and ecological protection as required by LP Policy E9

As stated above the acceptability of the principle of employment uses on part of the site is dependant on safeguarding any viable reserves of Etruria Marl and a nature conservation study being undertaken.

Only a small portion of the application site falls within this policy area, along the south western boundary beyond the line of the existing access. The planning application for the gantry crane proposal considered last year was wholly in this policy area (13/00157/FUL) and no consultations responses were received in connection with that application which identified any reasons to withhold planning permission on the ground of a conflict with the requirements of Policy E9 of the Local Plan.

Given the minimal extent of Policy E9 into the current planning application site, the current lawful use of the site and previously advice received it is considered this proposal would not conflict with the requirement of Policy E9.

The visual impact of the proposal and the acceptability of the proposed mitigation measures

The site sits at the bottom of Apedale Road in the valley with Apedale Country Park rising on the other side of the valley. This topography makes both the application site and the applicant's existing operation prominent in the surrounding landscape, especially at those times of year when trees do not have much foliage; however, from certain locations the site also has the backdrop of other industrial uses on both the applicant's current site and neighbouring sites.

The recent gantry crane proposal was approved on the basis of an extensive planting and mounding around the site and adjacent to the proposed gantry crane.

This current proposal seeks to extend that landscaping further, although the proposal will result in the loss of some sections of the landscaping scheme previously approved, namely around the north western perimeter of the gantry crane site.

The Landscape Development Section (LDS) have initially indicated their concerns with the loss of some of the previously approved landscaping and the amount of additional landscaping and have suggested more areas of landscaping are provided including those already agreed to.

Further discussions have taken place with the applicant's agent in respect of this element of the proposal, the applicant is concerned that the landscaping suggested by LDS would have serious consequences on the operational requirement of the site. However, a satisfactory solution to all parties has been verbally agreed whereby some of the proposed areas of landscaping would be increased in size and other parts of the application site are to be used for landscaping. Amended plans have received from the applicant's agent reflecting these discussions which indicate the additional proposed areas for landscaping.

Following this submission LDS raise no objection to the proposed development subject to the approval of additional detail by planning condition:

- Approval of detailed landscaping proposals including full schedules and specifications.
- Approval of a landscaping management plan to include proposals for litter removal and weed control.

Given the nature and use of the site and the topography of the surrounding area it would be impossible to fully screen the site when viewed from the surrounding area, however, the agreed revised solution would mitigate to some extent the visual impact of the proposed development and subject to appropriate conditions it is now considered acceptable in visual impact terms.

Highway matters

The applicant intends to use the existing access which currently serves Unit G1 for general day to day access requirements. The proposal proposes additional lorry parking adjacent to the unit.

As part of the previous proposal for the gantry crane the applicant provided details of the existing protocol relating to the haul route used by visitors, including delivery and collections, to the site. The

route advised is from the A34, via Parkhouse Road West, Audley Road, Watermills Road and Rowhurst Close – thus avoiding the centre of Chesterton. The applicant advises that hauliers are also provided with this route as a mandatory directive as a condition of supply to prevent traffic using that section of Apedale Road to the north east of its junction with Rowhurst Close. Use of that section by heavy goods vehicles of more than a certain tonnage would be contrary to a Traffic Regulation Order furthermore, and in the circumstances it does not appear necessary to seek an additional control over this aspect via a planning obligation.

The Highway Authority has no objections to the proposal.

It is considered there are no sustainable reasons to refuse the proposal on highway grounds

Residential Amenity

Given the separation distances from any existing or proposed residential development and the other surrounding existing commercial and industrial uses, it is considered the proposal would not cause any adverse loss of residential amenity. The Environmental Health Division has not objected to the proposal and are recommending a condition relating to the approval of any external lighting scheme to prevent/ reduce light pollution.

It is considered there are no sustainable reasons to refuse the proposal on residential amenity grounds.

Background Papers

Planning file
Planning documents referred to

Date report prepared

3rd April 2014

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THE CROFTS, PINWOOD ROAD, ASHLEY
MR & MRS DAWSON

14/00150/OUT

The application is for outline planning permission for the erection of a two storey detached dwelling with a detached garage. Approval is sought for means of access and landscaping of the development at this stage with appearance, layout, and scale all reserved matters for subsequent approval. Access is proposed off Pinewood Road.

The application site forms part of the side garden to the dwelling, the Crofts, and would be an infill development. It lies within the rural area outside of the village envelope of Loggerheads as defined on the Local Development Framework Proposals Map. The site area is approximately 0.15 hectares.

The 8 week period for the determination of this application expires on 06 May 2014.

RECOMMENDATION

PERMIT subject to conditions relating to the following:-

- **Standard time limit.**
- **Reserved matters submissions.**
- **Approved Plans.**
- **Proposed ground and floor levels**
- **Access, surfacing, parking, turning and visibility provision to be detailed on any reserved matter application that includes layout.**
- **Gate location and opening arrangements**
- **Tree and hedgerow protection measures.**
- **Landscaping to be carried out in accordance with the submitted scheme subject to amendments that include replacement trees and hedgerow along the front boundary 2m from the edge of the carriageway that shall be been approved beforehand.**
- **Submission of hardstanding materials**
- **Submission and approval of any external lighting**

Reason for Recommendation

In the context of the Council's inability to demonstrate an up to date 5 year plus 20% supply of deliverable housing sites, and acknowledging the proximity to existing local services it is not appropriate to resist the development on the grounds that the site is within the rural area outside of a recognised rural service centre. The impacts of the development – principally the site being Greenfield land outside of a rural service centre or village envelope and the loss of some greenery to accommodate the dwelling within the locality do not significantly and demonstrably outweigh the benefits of the development which relate to boosting housing land supply. Accordingly permission should be granted.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework no amendments have been considered necessary.

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

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

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 CSP3	Sustainability and Climate Change

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N12	Development and the Protection of Trees
Policy N13	Felling and Pruning of Trees
Policy N17	Landscape Character – General Considerations
Policy T16	Development – General Parking Requirements

Other Material Considerations

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

Supplementary Planning Guidance/Documents

Space Around Dwellings (July 2004)

Newcastle under Lyme and Stoke on Trent Urban Design 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)

Planning History

NNR4082 (1967)	Erection of Dwellings	Permit
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Views of Consultees

Highway Authority raise no objections subject to conditions that the access is completed before occupation; the access is surfaced in a bound material a minimum of 5 metres from the back of the highway; no boundary exceeding 600mm in height within 2m of Pinewood Road; gates to open away from the highway; and the submission of details of parking and turning and means of surface water drainage of the access.

Loggerheads Parish Council objects to the application due to it;

- Representing overdevelopment of the Heath area,
- Access from the property is inadequate, and
- The application would require a septic tank (referred to as foul drainage facility), which would lead to environmental and ecological issues in the area which already has an excess of such tanks.

Severn Trent Water raises no objections subject to a condition that drainage plans for the disposal surface water and foul sewage are submitted and approved by the LPA.

The Landscape and Development Section raises no objections subject to the recommendations of the tree report being adhered to and the birch tree being replaced if it cannot be retained.

The Environmental Health Division raises no objections subject to conditions regarding construction hours and external lighting.

Staffordshire Wildlife Trust has not responded to their consultation and as the period for comments has expired, it must be assumed that they have no observations to make upon the proposal.

Representations

No letters of representation have been received.

Applicants/ Agents submission

A location plan, block plan and topographical survey has been submitted along with a, tree survey, ecology statement, foul drainage assessment and flood drainage assessment.

In addition a planning statement has been submitted, the main points of which are summarised as follows:-

- The application seeks outline planning permission for the erection of a detached two storey dwelling.
- The landowners wish to develop an easier to manage and more eco-friendly dwelling in their existing garden.
- Loggerheads has a strong identity as an established residential area and benefits from the services in the village centre of Loggerheads and Ashley (comprising supermarket, post office, chemist, beauty salon, restaurants, public houses, churches, village hall, fire station, primary school and surgery) and a regular bus service.
- The Crofts has its own established vehicular access with a second full width access into the development plot.
- All infrastructure services are, or can be easily made available to the site.
- The planning application site appears to comprise the one remaining developable plot of land which would offer a suitable density and which would form an infill plot within what is otherwise a built up frontage.
- The proposed development complies with the requirements of the supplementary planning guidance in respect of the separation distances that can be achieved between the proposed and existing dwellings.
- The illustrative layout shows that a dwelling and garage can be located within the open area of the site without harm being caused to either trees or hedgerows, protection measures for which are detailed on the plans accompanying the tree report.
- The development will achieve its economic role in that it makes a contribution towards ensuring that land of the right type is available in the right places.

The submitted information is available at the Guildhall and at www.newcastle-staffs.gov.uk/planning/TheCroftAshley

Key Issues

The application is for outline planning permission for the erection of two storey detached dwelling in the side garden of a large detached dwelling located on Pinewood Road. Access and landscaping are sought for approval with appearance, layout and scale reserved for subsequent approval. The site represents an infill development in an attractive area of low density residential development built mainly in the 1960's and 1970's within a woodland setting located within the rural area as defined by the Local Development Framework Proposals Map.

Paragraphs 214 and 215 of the NPPF state that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. In other cases and following this

12-month period (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).

The main issues in the consideration of the application are:

- The acceptability of residential development in this location in consideration of current housing policy and guidance on sustainability
- The landscape impact of the proposals
- The access arrangements and any highway safety implications
- The impact on trees

The acceptability of residential development in this location in consideration of current housing policy and guidance on sustainability

The Core Spatial Strategy and in particular policy SP1 sets out the Council's vision for targeted regeneration which includes new housing, amongst other things. A number of targeted areas are identified with previously developed land also being favoured.

Policy ASP6 is more specific towards housing in rural areas and 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. This is to allow only enough growth to support the provision of essential services in the Rural Service Centres.

Furthermore, policy H1 of the Local Plan seeks to support housing within the urban area of Newcastle or Kidsgrove or one of the village envelopes. It also supports the conversion of a rural building, affordable housing and residential accommodation essential for the proper functioning of a viable enterprise of agriculture or forestry.

The application site forms part of the residential garden of the 'The Crofts' and so does not meet the definition of previously developed land.

The application site is located close to but outside of the village envelope of Loggerheads with the edge of the development boundary being approximately 0.3km (measured along the public highway). Pinewood Road has no footpath or street lighting but there is a public footpath (Loggerheads 17) to the south of the site which links Pinewood Road to the A53 Newcastle Road.

The National Planning Policy Framework (NPPF) advises, at paragraph 49 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 up-to-date if the Local Planning Authority (the LPA) cannot demonstrate a five-year supply of deliverable housing sites.

At paragraph 14, the Framework also states that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole.

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 most recently calculated 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). A more up to date figure to reflect the position as at 31st March 2014 will be calculated in due course (the process involves site by site visits to check completions, decisions on the inclusion of sites in the supply and the making of an assumption about windfall sites, and the taking into account of the national planning practice guidance issued on the 6th March 2014). Until this process is completed the Authority has to rely upon the currently published figure, which your officers are satisfied is robust, as there are no substantive grounds at present to consider that the picture will be materially different – i.e. the Borough will continue to be unable to demonstrate a 5 year supply allowing for an appropriate buffer as required by the NPPF. The applicant is entitled to a timely decision upon his application. If an update can be given it will be.

Given that the Borough Council is currently unable to demonstrate a five year supply of deliverable housing sites the provisions of paragraph 49 of the Framework and, on that account, paragraph 14 are triggered.

Paragraph 55 of the NPPF focuses on housing in rural areas and indicates that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural communities. An example given is where there are groups of smaller settlements, development in one village may support services in a village nearby.

In this particular case the site is not located within the village envelope of Loggerheads, an identified Rural Service Centre. It is however within the settlement of Ashley Heath which adjoins the village envelope where existing properties benefit from services and amenities such as bin collections and utilities.

The site represents an infill development amongst other large residential properties and is not isolated from other dwellings. More importantly it is located within walking distance of the centre of Loggerheads, primarily situated off Eccleshall Road, and has a regular bus service that runs in close proximity to the site with a bus stop being less than 100 metres away which between Hanley Bus Station to Market Drayton with a stop in Loggerheads (service centre). Therefore the site can be classed as being in a sustainable location amongst existing residential properties, within walking distance of the village envelope and having public transport opportunities in close proximity.

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. The other key elements of the proposal are now considered below.

What is the impact upon the character of the area and wider landscape, and is the impact acceptable?

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape and landscape including its rural setting and the settlement pattern created by the hierarchy of centres. The Councils Urban Design SPD provides further specific detailed design guidance in complement to this provision.

The site does not have a specific landscape character designation within the Development Plan. The area is characterised by low density residential development with a variety of housing styles within large plots with landscaped gardens that contribute significantly to the prevailing character of the area.

The proposed development would result in the loss of the large side garden which would make the residential curtilage of the Crofts smaller. The resultant plot size for the Crofts and

the proposed dwelling would be similar to other dwellings along Pinewood Road. Furthermore, the submitted indicative layout plan demonstrates that a dwelling could be easily assimilated into the area whilst maintaining the character and form of the area.

Notwithstanding the above, the layout, scale and appearance are reserved for subsequent approval and due to the varying styles, design and size of properties within the area it is considered that a dwelling can be proposed that would maintain and possibly enhance the character and form of the area.

Would the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook.

As discussed the application site forms the side residential garden of the Crofts. Whilst layout, scale and appearance are matters all reserved for subsequent approval, an indicative layout has been provided which demonstrates that a dwelling can be easily positioned within the site to avoid any significant adverse harm on the residential amenity of the existing property.

The neighbouring property, Hunters Lea, is separated from the application site by the long access drive to Christleton which is located beyond the rear boundary. Hunters Lea does have a rear outlook towards the application site due to its orientation within its plot. Notwithstanding this it is considered that a dwelling could be positioned within the site that would achieve or exceed the guidance set out in the SPG.

Is the impact to highway safety acceptable?

Access to the site is proposed from Pinewood Road by means of a separate existing access. The Highways Authority has raised no objections subject to conditions. They have advised that nothing shall be placed or allowed to remain on the site frontage within 2 metres of the Pinewood Road carriageway edge which exceeds 600mm in height above the level of the adjacent carriageway for the life of the development. This would result in much of the natural attractive frontage which includes, trees, hedgerows and shrubbery being lost which is not considered acceptable. However, a new hedgerow and boundary treatment could be secured via condition. The applicant has detailed that a new replacement hedgerow (comprising naturalised mixed species such as Holly, Hawthorn) would be acceptable.

Is the impact to surrounding trees acceptable?

The application site is not covered by a tree preservation order and a tree survey has been submitted to support the application.

Landscaping is a matter for approval as part of this application with the front boundary having a natural hedgerow with trees and shrubbery also. The tree survey details that a birch tree in poor condition would be lost at the access point. All other trees on the front and side boundary will be managed through pruning and tree protection measures to avoid their loss and minimise the impact on the living conditions of the occupiers of the proposed dwelling.

The application seeks to maintain the existing landscaping of the site which represents an attractive garden and whilst some hardstandings are likely to be required it is considered that the use of materials and layout can maintain the character of the area. These will need to form part of a reserved matters application.

Accordingly subject to planning conditions the requirements of policy N12 and N13 can be satisfied.

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?

In consideration of the above points, the development would result in some local impact on the character and appearance of the area in that a portion of open greenery would be lost to accommodate a dwelling. However, a dwelling on this plot would not significantly harm the character and form of the area and the proposal would represent sustainable development which would make a contribution towards addressing the undersupply of housing in the Borough. 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.

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

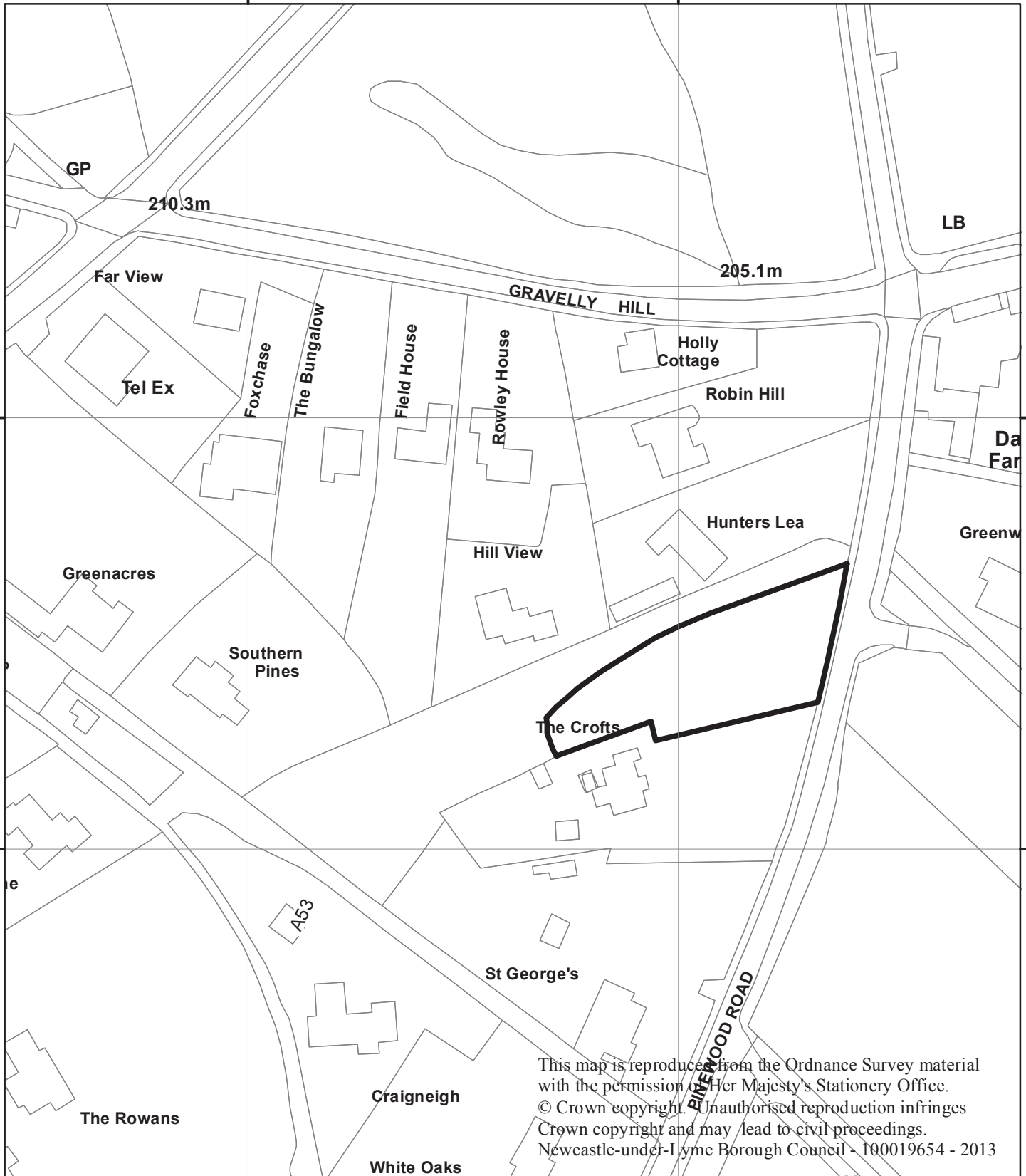
08 April 2014

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ST. MARYS AND ALL SAINTS CHURCH, WHITMORE
REV NIGEL CLEMAS

14/00158/FUL

The application is for full planning permission for the erection of a free standing toilet building adjacent to the Grade II* listed building. The site is within the Whitmore Conservation Area, the North Staffordshire Green Belt on land designated as an Area of Landscape Maintenance as indicated on the Local Development Framework Proposals Map.

The statutory 8-week period for the determination of these applications expires on 29th April 2014

RECOMMENDATIONS

Permit, subject to the following conditions;

- **Standard Time limit**
- **Approved plans/drawings/documents**
- **Materials and colour as per submission**
- **Lighting as per submission**
- **Recommendations of the Arboricultural Assessment and Method Statement.**
- **All service connections to be completed in accordance with NJUG recommendations.**
- **Prior submission and approval of a schedule of pruning works**
- **Prior submission and approval of an arboricultural site monitoring schedule in accordance with BS5837:2012.**
- **Submission and approval of an archaeological watching brief**

Reason for Recommendation

The proposed development is considered to represent inappropriate development within the Green Belt but it is considered that the need for a toilet constitutes the very special circumstances required to justify the development. The impact on the existing large Yew tree and other trees in the locality could be mitigated through condition, and subject to control over the materials and lighting it is considered that the siting and design of the proposed development would not harm the setting of the Grade II* Listed Building or the character and appearance of the Whitmore conservation area and landscape in general. An archaeological watching brief is also advised to protect religious activity on this site. The proposal is considered to comply with policies of the development plan and the guidance and requirements of the NPPF.

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

The application is a resubmission following discussions between officers and the applicant's representatives. The proposal is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Policies and Proposals in the approved development plan relevant to the decision on the planning application:-

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

Policy ASP6: Rural Area Spatial Policy

Policy CSP1: Design Quality

Policy CSP2: Historic Environment

Newcastle Under Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt

Policy B5: Control of development affecting the setting of a Listed building

Policy B6: Extension or Alteration of Listed Buildings

Policy B9: Prevention of Harm to Conservation Areas

Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area

Policy B13: Design and Development In Conservation Areas

Policy B14: Development in or Adjoining the Boundary of Conservation Areas

Policy B15: Trees and Landscape in Conservation Areas

Policy N12: Development and the Protection of Trees

Policy N13: Felling and Pruning of Trees

Policy N19: Area of Landscape Maintenance

Other Material Considerations include:

National Planning Policy Framework (March 2012)

Supplementary Planning Guidance

Whitmore Village Design Statement (September 2002)

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

Planning for Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011

Relevant Planning History

An application for 13/00813/FUL for the erection of discreet free standing WC in timber framed and clad building was received last year, but was withdrawn before a decision was made.

Views of Consultees

The **County Council Archaeologist** has not responded to this application but made the following comments in their response to the withdrawn application;

An archaeological watching brief should be maintained on all groundworks associated with this application due to the religious activity on this site (including burials) which is likely to have occurred from at least the medieval period onwards. There is also some suggestion that the church may have been a pre-conquest (1066) foundation, and there is therefore also the potential for earlier remains to survive. The watching brief can be secured via condition.

Whitmore Parish Council raises concerns about the softwood construction and the potential condition in several years' time. They also acknowledge that the application replaces a previously withdrawn application whereby the borough council had concerns about the impact on the enormous yew tree but the siting is the same.

English Heritage raised no objections to the previous application (13/00813/FUL) and they detail that the toilet block has been the subject of extensive pre application discussions between officers, the applicants and their architects, Lichfield DAC and English Heritage over a number of years. The D&A Statement indicates there is no opportunity to locate the facility within the grade II* listed church nor to extend it without causing harm to its architectural and historic significance. Other options for positioning the toilet within the churchyard were all rejected as being intrusive to the setting of the listed church, Whitmore conservation area and the setting of grade I Whitmore Hall. The site within the shrubbery was agreed as representing the most discrete location visually while still affording good convenience to users

from the church. The simple design of the structure is an appropriate response to this location.

The **Environmental Health Division** raises no objections

The **Landscape and Development Section** detail that adjustments have been made since the previous application and it is now possible to install the toilet in accordance with BS5837:2012, subject to the arboricultural recommendations provided being followed in full. However, positioning the toilet beneath the canopy of the tree is not best practice and that all other alternatives should have been thoroughly investigated. Conditions would mitigate the impact and should be imposed.

Concerns are also raised with regards to the two sheds, Bins, seats, bricks, rubbish, rubble, oil tanker, compost heap located under the yew tree canopy. This is having an effect on tree roots.

The Council's **Urban Design and Conservation Officer** details that following the consultation response for the last application which was withdrawn, if landscape are satisfied that the tree will not be affected by the development it is the view that this proposal will not harm the overall significance of the church, and its setting. No colour or finish is given for the timber cladding of the structure has been provided, so a condition should be imposed what the colour and finish will be.

The **Conservation Advisory Working Party** raises no objections.

Representations

No letters of representation have been received.

Applicant's Submission

A Design and Access Statement and Heritage Asset Statement have been submitted which sets out a justification for the proposed toilet. An arboricultural assessment has also been submitted with an arboricultural method statement included in the design and access statement.

The main points of the above documents are as follows;

- The lavatory is being provided for the use of the church goers.
- The WC will be suitable for wheelchair users.
- The proposed freestanding building is designed to be as inconspicuous as possible. It is approx 4.3 x 2.0 metres.
- The proposed building will be of timber construction with horizontal overlapping boards to the walls and a simulated shingle roof.
- The building will be concealed from general view because it will be located under a large Yew tree.
- The preservation of the tree is critical to ensure that the WC remains discreet.
- Careful consideration has been given to the design of the foundations which instead of being a single slab or a strip foundation takes the form of four Screw piles each up to 2m long 60mm diameter with an 8" helix at the base and a 10" helix approx one third of the way up the pile.
- The exact location of the piles will be determined by the contractor digging a hole 450 x 450mm by hand to determine the exact location of main tree roots so that the screw piles will be positioned to cause as little damage as possible to the existing tree roots.
- The machine that drives in the piles is hand held and hydraulically driven by a machine that can be located on the adjacent drive so that no plant will need to be brought under the tree thus compacting the earth and damaging the roots.
- The existing path that runs along the south side and the east side of the church will be used to access the new WC.

All of the documents are available to view at the Guildhall and on www.newcastle-staffs.gov.uk/planning/StMarysChurch

Key Issues

The application is for a detached toilet building within the church yard of a Grade II* listed building in the Whitmore Conservation Area. The site is also within the North Staffordshire Green Belt and designated as an Area of Landscape Maintenance, as indicated on the Local Development Framework Proposals Map.

The proposed toilet would be for the benefit of the users of the church during services.

The key issues in the determination of the development are:

- Is the proposal appropriate development within the Green Belt?
- Does the proposal preserve the special character and appearance of this building and the setting of other adjacent listed buildings?
- The impact of the proposal on the conservation area and landscape in general
- The impact on trees
- Other matters
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

Is the proposal appropriate development within the Green Belt?

Paragraph 79 of the recently published NPPF details that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

The NPPF further details in paragraph 89 that local planning authorities should regard new buildings within the Green Belt as inappropriate. There are a limited number of exceptions to this but the proposed development does not fall within any of these exceptions.

It is therefore considered that the proposed development constitutes inappropriate development within the Green Belt and should not be approved except in very special circumstances.

Does the Proposal Preserve the Special Character and Appearance of this Building and the Setting of other Adjacent Listed Buildings?

The church is a Grade II* listed building with four memorials/ grave stones within the church yard that are Grade II listed.

Paragraph 132 of the NPPF details that when considering the impact of a proposed development on the significance of a designated heritage asset; great weight should be given to the assets conservation. The more important the asset the greater the weight should be and any harm or loss should require clear and convincing justification.

Policy B5 seeks to resist development proposals that would adversely affect the setting of a listed building. Policy CSP2 of the Core Spatial Strategy also seeks to preserve and enhance the character and appearance of the historic heritage of the Borough.

The proposed building would be located approximately 2.5 metres from the north east corner of the church in a heavily vegetated area. The area has existing timber shed buildings and a tank which cannot be seen from important views within the church yard due to the amount of trees and vegetation.

The proposed building would be of a timber construction and of a modest size and scale. The proposal would have a covered veranda to the front but in essence it would have the appearance of a garden shed building. The size and appearance of the building is considered

acceptable but the main benefit of the proposal is its location as it would benefit from the screening that is afforded from the existing trees and vegetation. Therefore due to the acceptable design, size and location of the proposal it is considered that it would not adversely affect the setting of the listed building and any minimal harm would be outweighed by the benefits of a disabled toilet.

It is also located away from the other listed structures within the church yard and so would cause no significant harm to the setting of these listed structures.

Impact on the character and appearance of the Conservation area and landscape in general

The site lies within the Whitmore Conservation Area. Policy B9, B10, B13 and B14 seeks to prevent harm of development on Conservations Areas and a requirement to preserve or enhance the character or appearance of a Conservation Area.

The site is also within an Area of Landscape Maintenance which seeks to maintain the high quality and characteristic landscapes. Within these areas it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape.

The proposed development would provide toilet facilities for users of the church during church services. As discussed the location of the proposed development results in minimal views from any main views from the church yard and conservation area in general due to it being heavily screened by vegetation and mature trees. The appearance as a modest timber building would also minimise its impact despite the area beginning to become cluttered with structures and paraphernalia.

The applicant has detailed that the building would be stained green (Eucalyptus) in response to the conservation officers comments and this is considered acceptable.

Policy B15 of the local plan details that trees and landscape features which contribute to the character and appearance are part of the setting of a Conservation Area and should be retained. The proposal would be located close to a large Yew tree. Its loss would be harmful to the character and appearance of the church yard and the conservation area in general and would limit the screening of the proposed building. Subject to this significant tree not being lost the proposal represents an acceptable development that would not result in it having a significant and adverse harm to the character and appearance of the conservation area or landscape in general.

The Impact on trees

Local planning policy (N12) seeks to protect trees that are covered by tree preservation orders and any visually significant trees within the landscape. Policy B15 of the local plan also seeks to protect trees and landscape features which contribute to the character and appearance of the conservation area.

The previous application was withdrawn due to concerns regarding the adverse impact on a large Yew Tree. The application is now supported by an Arboricultural Assessment and a Method Statement (included in the design and access statement).

The Landscape Section still raise concerns due to the positioning of the proposal beneath the canopy which does not represent best practice. However, they detail that conditions can be imposed to minimise the impact. They advise that the arboricultural recommendations are followed in full, all service connections are completed in accordance with the NJUG (National Joint Utilities Group) recommendations, prior submission and approval of a schedule of pruning works and the prior submission and approval of an arboricultural site monitoring schedule in accordance with BS5837:2012.

In view of the Landscape Sections comments and the recommended conditions it is considered that the harm to the large Yew tree and other trees would be minimised. The location and design of the proposal is considered the optimum in terms of the impact on the

listed building and conservation area. The proposal is considered to comply with policy N12 of the local plan.

Other matters

The County Council archaeologist made comments on the previous application advising that a watching brief be conditioned due to the location within the church yard and the religious activity on this site (including burials) which is likely to have occurred from the medieval period. There is also some suggestion that the church may have been a pre-conquest (1066) foundation, and there is therefore also the potential for earlier remains to survive.

In terms of the lighting proposed this is considered acceptable and EHD have raised no objections.

Do the required very special circumstances exist (to justify inappropriate development)?

Paragraph 79 of the recently published NPPF states that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

The NPPF details that very special circumstances (to justify inappropriate development) will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The building is of a modest size and would provide a disabled toilet facility for users of the church during services. The church has no existing toilet facilities and there is an expectation that nearly all public buildings have WC facilities especially those that cater for the elderly and the very young.

The applicant has detailed that other options have been explored within the church but these would be impractical and potentially have a greater impact on the fabric of the church. This is confirmed by English Heritage. Therefore a detached building in the location selected is an appropriate location for access and impact on the setting of the listed building and conservation area.

It is considered that there is a clear need for a toilet facility and this need would outweigh the minimal harm to the openness of the Green Belt and the purposes of including land within the Green Belt. The need for the toilet is therefore considered to represent the very special circumstances required to justify the proposed development in this instance, this being in accordance with the requirements of the NPPF.

Background Papers

Planning file
Planning documents referred to

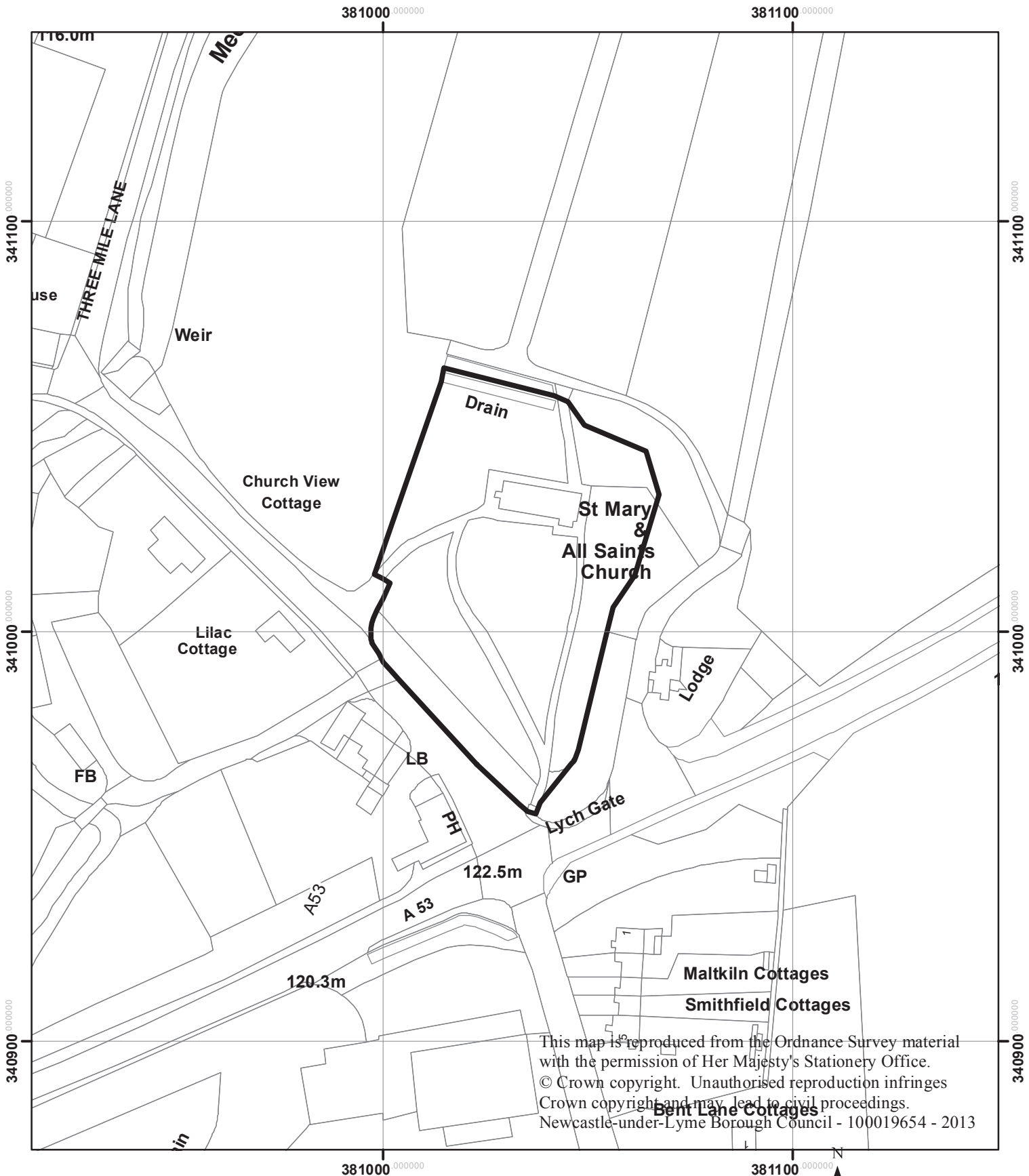
Date report prepared

08 April 2014

St Marys and All Saints Church Whitmore



14/00158/FUL



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Classification: NULBC UNCLASSIFIED

21 RATHBONE AVENUE MAY BANK
MISS C HORNE

14/00183/FUL

The application is for a rear conservatory measuring 4 metres by 4.9 metres in footprint, and 3.2 metres rising to 3.6 metres in roof ridge height because of changes in ground levels.

The site is within the urban area of Newcastle as defined on the Local Development Framework Proposals Map.

The application has been brought to the Planning Committee because the applicant is an employee of the Council.

The statutory 8 week period for the determination of this application expires on 8 May 2014

RECOMMENDATION

Refuse the application for the following reason:

- 1. The conservatory is harmful to residential amenity levels due to its inappropriate scale and overbearing appearance.**

Reason for Recommendation

Whilst the length of the conservatory has been reduced from the conservatory that was previously refused and dismissed at appeal, it is considered that the living conditions of the occupiers of Nos. 1 and 3 Brampton Road would be unacceptably affected due to the overbearing nature and dominance of the proposed conservatory. As such the reasons that the Planning Inspectorate dismissed the appeal have not been satisfactorily addressed.

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 discussed how the conservatory could be amended however the submitted proposal does not overcome the findings of the Inspector in the recent appeal decision. It is therefore considered that the proposals are unsustainable and do not conform with the core planning principles of the NPPF.

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

Newcastle Under Lyme Local Plan 2011

Policy H18: Design of Residential Extensions

Newcastle under Lyme and Stoke on Trent Core Strategy 2006-26 (adopted 2009)

Policy CSP1: Design Quality

Other Material Considerations

Relevant National Policy Guidance:

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

Supplementary Planning Guidance

Space Around Dwellings (July 2004)
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (Nov 2010)

Relevant Planning History

Planning permission was refused for the retention of a rear conservatory erected without the benefit of planning permission in 2013, under planning application reference number 13/00354/FUL. An appeal against the decision was dismissed, and an enforcement notice was served to remove the unauthorised development, the terms of which have been complied with by the landowner.

Views of Consultees

None consulted.

Representations

None received.

Applicant's/Agent's Submission

A supporting statement has been provided, the main points of which are summarised as follows:

- The application is a resubmission for a conservatory which has been considerably reduced in size.
- The proposed conservatory is of a scale consistent with the proportion of neighbouring extensions.
- Windows are to be non opening where facing the neighbouring boundary and are also to be obscure glazed to maintain privacy levels. The proposal will improve the outlook of neighbouring properties by being less dominant.
- The proposal has full support of the property owners at No. 1 and 3 Brampton Road who, since the removal of the previous conservatory, have expressed concerns about the open aspect of the boundary and the loss of privacy that has resulted. The proposal addresses this concern and in doing so the negative impact that was referred to at appeal is outweighed.

The application details referred to above are available to view at the Guildhall or using the following link www.newcastle-staffs.gov.uk/planning/21Rathbone

Key Issues

The conservatory is a resubmission following refusal of a retrospective application for a conservatory in 2013 for the following reasons:

1. *The conservatory is harmful to residential amenity levels due to its inappropriate scale and overbearing appearance. The proposal is therefore contrary to the aims*

and objectives of The National Planning Policy Framework paragraph 17 4th bullet point (2012).

2. The design of the extension is harmful to the appearance of the dwelling as the external facing materials are inappropriate for the scale of the extension. The proposal is therefore contrary to the aims and objectives of The National Planning Policy Framework paragraph 9 (2012), Strategic Aim 16 and Policy CSP1 of Newcastle-under-Lyme and Stoke-on-Trent Core Strategy 2006-26, and the advice found in the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010).

An appeal was lodged which was subsequently dismissed. In dismissing the appeal the Inspector concluded that the conservatory would have an unacceptable impact on the living conditions of neighbours. The Inspector did not, however, conclude that its design was harmful to the character and appearance of the area.

The conservatory as currently proposed has been reduced in its overall length by approximately 2 metres from that previously proposed and measures 4 metres by 4.9 metres in footprint and 3.2 metres rising to 3.6 metres in roof ridge height because of changes in ground levels. Its design reflects that of conservatory that was the subject of the appeal and in light of the Inspector's conclusion that in this regard it was acceptable it is considered that it would be unreasonable to now conclude that the design is unacceptable. As such the key issue to address is whether the impact of the proposed conservatory to the living conditions of neighbouring occupiers would be acceptable?

Would the impact to the living conditions of neighbouring occupiers be acceptable?

It is the impact of the conservatory upon the living conditions of the occupants of numbers 1, 3 and 5 Brampton Road that causes the most concern. These neighbouring properties have a lower slab level than the application property and have small rear garden areas.

The proposed conservatory applied for would be built on the back of an existing brick single storey rear extension resulting in an overall projection of 7.2 metres from the original rear elevation of the application property.

Paragraph's 9 and 17 of the NPPF require planning authorities to take decisions that ensure a good standard of amenity for all existing and future occupants is maintained and that proposals provide positive improvements to people's quality of life.

The appeal decision relating to planning application 13/00354/FUL, for a larger conservatory, is a key material consideration in the determination of the current application. Planning permission should only be granted if it can be concluded that the reasons that the appeal was dismissed has been suitably addressed.

The Inspector in the determination of the appeal found that although the development would not materially impact upon neighbouring daylight levels the structure would be overbearing and dominant, not only in relation to the outlook from the rear of No. 1 but also from the rear of Nos. 3 and 5 Brampton Road. This was caused by the close proximity and orientation of the conservatory to the rear elevations of these properties as well as the height and massing of the structure. The Inspector also commented that *"notwithstanding the support that No. 3 Brampton Avenue, No. 17 Rathbone Avenue and others have given to the conservatory through the petition, I conclude that the development has a significant negative impact on the living*

conditions of the occupants of a number of nearby dwellings and that it is therefore contrary to paragraphs 9 and 17 of the National Planning Policy Framework.

The projection of the conservatory along the rear boundary of properties on Brampton Road, as proposed within this application, has been reduced by 2m (from 6m to 4m) as mentioned above. This will result in an improved relationship with No. 5 Brampton Road as the proposed conservatory will extend along only approximately 0.5m of the rear boundary of that property (compared to 2.5m, which was approximately a third of the length of the boundary). The proposed conservatory will, however, extend along the entire rear boundary of No. 3 Brampton Road as previously, and its relationship to No. 1 Brampton Road will be very similar to that of the conservatory that was refused and dismissed at appeal. On that basis it could not be concluded that concerns of the Inspector as the overbearing and dominant impact on Nos. 1 and 3 Brampton Road will have not have been addressed. Had the amended proposal set the conservatory away from the rear boundary of such properties, by a suitable distance, in addition to a reduction in its length then a different conclusion may have been reached.

Background Papers

Planning File
Development Plan
National Planning Policy Framework (2012)

Date report prepared

8 April 2014

MALCOLM HARRISON AUCTION LTD, MUCKLESTONE ROAD, LOGGERHEADS
MR M HARRISON

14/00080/FUL

This report relates to the unauthorised erection of a building at an existing established lorry park and haulage yard.

The site lies within the open countryside and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map.

This report follows and takes account of the decision of the Planning Committee on 3rd April 2014 to refuse planning permission for this development on the grounds of impact on residential amenity.

RECOMMENDATION

It has been concluded that the development has an unacceptable impact on residential amenity having regard to the provisions of the development plan and to all other material considerations, including the imposition of conditions, and as such it is expedient to take enforcement action.

That the Head of Legal Services be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure the removal of the building from the site.

That the period for compliance be within 1 month of the Notice coming into effect.

Reason for Recommendation

Planning permission has been refused for this development. The unauthorised erection of the building has occurred within the last 4 years. Having regard to the provisions of the development plan and any other material considerations, it is considered expedient to take enforcement action. A time period of one month for compliance with the notice is considered reasonable.

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

Policy CSP1: Design Quality
Policy CSP4: Natural Assets
Policy ASP6: Rural Area Spatial Policy

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy N17: Landscape Character – General Considerations
Policy N19: Area of Landscape Maintenance

Other Material Considerations include:

National Planning Policy Framework (NPPF) (March 2012)

National Planning Practice Guidance (NPPG) (March 2014)

Relevant Planning History

77/4237/N Outline application for workshop and Lorry Park – Permitted
05/00356/ELD Certificate of Lawfulness for use of site as a lorry park/haulage yard for the parking, repair and maintenance of heavy goods vehicles, fuel storage and associated offices – Issued

05/01166/FUL	New office building, workshop extension, alteration of two accesses and closure of further access – Withdrawn
06/00214/FUL	New office building, workshop extension, alteration of two existing accesses and closure of existing access – Refused
07/00114/FUL	New offices and replacement workshop – Refused and allowed on appeal
08/00659/FUL	New offices and workshop – Approved
10/00537/FUL	Retention of two static mobile homes for residential use for security staff – Refused and a subsequent appeal against an Enforcement Notice was dismissed and the enforcement notice upheld, however planning permission for one mobile home was granted
11/00543/FUL	Retention of portal framed building/amendments to previously approved application ref. 08/00659/FUL and associated landscaping – Approved
12/00004/FUL	Retention of new basement area for new offices previously approved under planning application 08/00659/FUL – Approved
12/00498/FUL	Retention of mobile home for storage associated with security purposes – Approved
14/00080/FUL	Erection and retention of a canvas covered temporary building for a period of 2 years - Refused

Views of Consultees on the recent planning application

The **Environmental Health Division** had no objections subject to a condition requiring no external lighting unless a lighting scheme is approved by the Local Planning Authority.

Loggerheads Parish Council objected to the proposal in the strongest terms. The building is already substantially completed and occupied by large vehicles. Objection was made on the following grounds:

- The site is much larger than the area quoted.
- The application form states that there will not be any industrial or commercial processes or machinery within the building so it is queried why it is needed.
- The Design and Access Statement does not mention the completed roof or the fact that the sides are of partial metal construction, not canvas.
- The application refers to temporary workspace and storage but there is no information as to the proposed uses which will have to be strictly conditioned and controlled as the structure is less than 25m from a residential property.
- The building could easily go elsewhere on the site rather than close to an existing residential property and other temporary residential structures within the site.
- There are no other canvas covered temporary structures on the site.
- It appears that this is the first stage in obtaining a permanent consent for a building as the concrete floor will have a useful life considerably in excess of two years.
- This proposal will lead to overdevelopment of the site.
- The proposal will have a significant impact upon the adjacent residential property, West View.
- Approval will require very strict conditioning of the uses to be permitted, working hours and noise levels, all of which will require strict and continual monitoring by Officers.
- This retrospective application is simply a means to try and circumvent the planning process.

The **Highway Authority** had no objections to the proposal.

Representations received on the recent Planning Application

One letter of objection was received. Objection was made on the grounds of the impact on the neighbouring residential property from activity, noise and disruption, and impact on property value. It was requested that activity is monitored, kept to a minimum (i.e. for storage purposes only) and that the two year deadline for deconstruction will be enforced.

Observations on the breach of planning control

The planning department was advised in January 2014 that a concrete base and steelwork had been installed at the site. Officers wrote to the site owner on 31st January 2014 confirming that the works

constitute a breach of planning control and requesting that he submit a planning application within 28 days of the date of the letter. A retrospective application was received on 6th February 2014. The application was considered by the Planning Committee on 3rd April 2014 and was refused. It is not yet known whether that decision will be appealed against.

The issue of whether it is expedient to take enforcement action, and the nature of that action

The taking of enforcement action in respect of breaches of planning control is a matter that is at the discretion of the Local Planning Authority, although the Authority must demonstrate that it has properly and expeditiously considered the matter. In coming to a decision it must decide whether it is expedient to take enforcement action having regard to the provisions of the approved development plan for the area and all other relevant planning considerations.

Insofar as the provisions of the development plan are concerned the site lies within the Open Countryside and a Landscape Maintenance Area. Your Officer recommended the recent retrospective application for approval subject to conditions for the following reason: -

It does appear that this additional building is needed to serve the existing level of use of this established business and the site is in a relatively sustainable location within walking distance of Loggerheads. Public views of the building are limited and it is not considered that the development has any significant adverse impact upon the character of the countryside. Given the existing lawful use of the site it is not considered that the building will result in any significant additional harm to residential amenity.

The Council however refused the application for the following reason:

The intended use of the building would have an unacceptable impact on residential amenity by virtue of noise, dust and odours due to the proximity of the building to the neighbouring property, West View, Rock Lane. As such, the proposal would be contrary to the aims and objectives of the National Planning Policy Framework (2012).

In deciding whether it is expedient to take enforcement action, the LPA is required to have regard to the provisions of the approved development plan for the area and to any other material considerations. Guidance on the process to be followed is provided within the NPPF and the recently published National Planning Policy Guidance (NPPG). The NPPG replaces Circular 11/95 – The Use of Conditions in Planning Permissions (1995) which is no longer a material consideration.

The Council has determined that the unauthorised building will have an unacceptable impact on the amenity of the occupiers of West View, Rock Lane, by virtue of noise, dust and odours. Having regard to the provisions of the development plan and any other material considerations, it is considered expedient to take enforcement action.

Given that the building comprises just a steel frame and a canvas roof, with open sides, and given that the business has a large existing workshop building, a time period of one month for compliance with the notice is considered acceptable.

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

8th April 2014

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FOURTH QUARTER REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO

Purpose of the Report

To provide Members with a quarterly report on the exercise by the Head of Planning and Development of the authority to extend periods within which planning obligations can be secured by (as an alternative to refusal of the related planning application).

Recommendations

a) That the report be noted

b) That the Head of Planning and Development continue to report on a quarterly basis on the exercise of his authority, to extend the period of time for an applicant to enter into the Section 106 obligations.

Introduction

The Committee have usually, when resolving to permit an application subject to the prior entering into of a planning obligation, also agreed to authorise the Head of Planning and Development to extend the period of time for an applicant to enter into the Section 106 obligations if he subsequently considers it appropriate (as an alternative to refusing the application or seeking such authority from the Committee).

When this practice was first established it was envisaged that such an extension might occur where the Head of Planning and Development was satisfied that it would be unreasonable for the Council not to allow for additional time for an obligation to be secured. It was recognised that an application would need to be brought back to Committee for decision should there have been a change in planning policy in the interim. It was agreed that your Officer would provide members with a regular quarterly report on the exercise of that authority insofar as applications that have come to the Committee are concerned. The report does not cover applications that are being determined under delegated powers where an obligation by unilateral undertaking is being sought.

This report covers the period between 28th January 2014 (when the Committee last received a similar report) and the date of the preparation of this report (8th April 2014)

In the period since the Committee's consideration of the last quarterly report (at its meeting on 28th January 2014) section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent extensions, with respect to some 5 applications. In one case no formal decision has yet been made on whether or not to extend the period. In all the other cases where an extension has been agreed by your Officer it has been on the basis that the applicants similarly agree to extend the period within which they cannot appeal against the Council's failure to determine the application.

As from 1st October the Planning Guarantee has been introduced, and in particular it requires Local Planning Authorities to refund any planning fee if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the Local Planning Authority have agreed in writing that the application is to be determined within an extended period. This will only apply to applications received after the 1st October 2013. This introduction of the Planning Guarantee provides yet another reason for maintaining a clear and continued focus on timeliness in decision making.

Details of the applications involved are provided below:-

Application 13/00245/FUL – Old Springs Farm, Stoneyford (HLW Farms)

The proposal for the retention of an agricultural building for chopping and storage of Miscanthus came before the Planning Committee at its meeting on the 4th June 2013 (the eight period expiring on the 10th June 2013). The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by the 17th July 2013, and that if the obligation was not secured by that date, then the Head of Planning should consult with the Chairman and Vice Chairman prior to making any decision on whether to extend the period within the obligation could be secured.

The obligation was not secured by the 17th July 2013 and was subsequently extended, in consultation with the Chair and Vice Chair, to the 6th September 2013. The obligation was not secured by this extended date.

The applicant's planning consultant provided comments on the draft section 106 after some delay due to personal circumstances. There was then a considerable delay on behalf of the Council and the applicant's agent expressed concern about the continued delay in resolving this matter. In mid March a further draft of the agreement was sent to the applicant's agent, and it is understood that a response is currently awaited. An interested party has now been informed of the current position. The Head of Planning and Development is yet to consider what is a reasonable but challenging extension period and he will be consulting with the Chair and Vice Chair on this matter, in accordance with the previous resolution. At the time of writing some 51 weeks has passed since the application was received. The application was received before the introduction of the Planning Guarantee.

An update on this case will be given in a Supplementary Report.

Application 13/00712/FUL – Blackfriars, Lower Street, Newcastle

This application, for a new foodstore with associated parking, servicing and landscaping first came before the Planning Committee at its meeting on the 10th December 2013. The resolutions of the Committee inter alia required that certain obligations, relating to the payment of contributions to NTADS, travel plan monitoring, the use of an automatic number plate recognition system, the improvement of nearby subways and the provision of a future footpath, be entered into by the 31st January 2014, unless your Officer considered it appropriate to extend the period. That did not occur and the application came back before the Planning Committee at its meeting on the 18th February, both to address the issue of whether additional time should be provided for the agreement to be completed and because of the outstanding objection from the Environment Agency.

The Committee having agreed that the development was acceptable, notwithstanding the by then confirmed objection of the Environment Agency, extended the period of time within which the same obligations had to be entered into until the 7th March 2014. That date passed without the obligations being secured, although a contributory factor was that the Secretary of State had not at that time determined whether or not to 'call-in' the application (which had been referred to him under the Consultation direction as flood risk area development). He made that decision on the 1st April, advising the LPA that they could proceed to determine the application. In the interim a draft agreement had been prepared and the agreement sought of the County Council to its contents – the County being required to be a party to the agreement. Your officer agreed on the 1st April, on the basis that there was not yet an agreement approved by the Councils available to the applicant, that it was reasonable and appropriate to permit the applicant additional time until the 25th April 2014 to conclude the agreement - having secured from the applicant their agreement to similarly extend the statutory period (within which they cannot appeal against the Council's non-determination of the application).

By the 25th April some 32 weeks will have passed since the application was received. The application was received before the introduction of the Planning Guarantee.

Application 13/00625/OUT – Linley Trading Estate, Butt Lane

This application for the erection of up to 139 dwellings and associated works first came before the Planning Committee at its meeting on the 7th January 2014. The resolutions of the Committee inter alia required that planning obligations be obtained by agreement by 3rd March to secure financial contributions towards the provision of education facilities, the provision of 2 affordable units, a management agreement for the long term maintenance of the open space on the site, a contribution towards travel planning monitoring, and that the financial viability assessment be reviewed if the development has not been substantially commenced within 12 months of the grant of planning permission and appropriate adjustments made to the contributions and provision, unless your Officer considered it appropriate to extend the period for the securing of these obligations.

Subsequently a report was brought before the Planning Committee on the 11th March 2014 and the Committee accepted certain recommendations as to the content of the planning obligations which are to be sought, whilst at the same time now allowing the applicant until the 22nd April to conclude the legal agreement. It would appear unlikely that this agreement will be achieved due to delays by the authority associated with the production of a draft agreement for consideration by the applicant. It may be necessary for your officer to agree an extension of the period and if this happens before the 22nd April a supplementary report on this item will be provided to the Committee

This application was received after the introduction of the Planning Guarantee referred to above. By the 22nd April some 26 weeks will have passed, but having obtained the applicant's agreement to extend the statutory period the Council will not have to pay back the application fee should the application be determined after that date

Application 14/00077/FUL – Maer Hall, Maer

The application for permission to vary a condition of an earlier permission relating to a conversion scheme came before the Planning Committee at its meeting on the 11th March 2014. The resolutions of the Committee inter alia required that certain planning obligations relating to the ownership and use of the building to be secured by agreement by 24th March 2014, unless your Officer considered it appropriate to extend the period for the securing of these obligations. The date passed without the agreement being completed due the absence abroad for an extended period of the applicant and the lack of an agreed obligation for him to complete. Noting the lack of any change in the material planning circumstances, the limited time between the 11th March (up until when there would have been a measure of uncertainty about the Council's position given the matter had yet to be considered by the Committee) and the 24th, and the reasons the date had not been achieved, on the 1st April your officer agreed to extend to the 25th April the period for the securing of these obligations, whilst the applicant agreed to extend the statutory period similarly.

By the 25th April some 12 weeks will have passed from receipt of the application, the application being received after the introduction of the Planning Guarantee.

Application 08/00795/EXTN2 – Former Holdcroft Garage, Knutton Lane, Wolstanton

The application for permission to renew a previous permission for residential development on this site came before the Planning Committee at its meeting on the

7th January 2014. The resolutions of the Committee inter alia required that obligations securing financial contributions to NTADS and open space enhancement be secured by 7th February unless your officer considered it appropriate to extend the period. That date passed without the obligations being secured. The Council has not provided the applicant with an agreement to complete, and in the circumstances your officer has now agreed to extend the period for the securing of the obligations until 7th May, noting that there has been no material change in planning circumstances that would justify a reconsideration of the application or a greater contribution. In exchange the applicant will be required to agree to extend the statutory period (within which no appeal can be made against the Council's failure to determine the application).

By the 7th May some 24 weeks will have lapsed since receipt of the application. The application was received after the introduction of the Planning Guarantee.

Application 14/00027/FUL Land adjacent to 31 Banbury Street

This application for permission for the erection of 13 dwellings came before the Planning Committee at its meeting on the 11th March 2014. The resolutions of the Committee inter alia required that obligations securing financial contributions to NTADS, education provision and open space improvement be secured by the 14th April. The applicant has now informed the authority that such a level of contributions would make the scheme unviable, but they have provided fairly limited information to substantiate this claim. It is clear that the 14th April deadline will not be met. Your officer notes the lateness of the submission now made by the applicant, but also members' expressed wish to see this brownfield site developed, and the requirement for Local Planning Authorities to act in a positive and proactive way, whilst also making decisions in a timely manner. He has agreed to extend the period within which an agreement can be secured – the intention being to bring a report to the 13th May Committee, if the applicant provides additional information and assists in its appraisal – because any decision to alter the contributions secured would have to be made by the Committee. The applicant will in return be required to formally agree to extend the statutory period (within which no appeal against the Council's non-determination of the application can be made)

By the 13th May some 16 weeks will have lapsed since receipt of the application. The application was received after the introduction of the Planning Guarantee.

Date Report prepared

8th April 2014

Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund – Madeley War Memorial, Junction of Newcastle and Keele Road, (Ref: 13/14011/HBG)

RECOMMENDATION:

That a grant of £2,160 be approved for the repair of the War Memorial at Madeley, subject to the appropriate standard conditions

Purpose of report

To enable members to consider an application for financial assistance towards the cost of the repair of this structure which is a Grade II Listed Building.

The War Memorial in Madeley occupies a prominent position on the road junction and represents the fallen of the First World War. Dedicated in 1921, it was added to the Statutory List of Buildings of Architectural or Historic Interest (Grade II) in September 2013 as a poignant reminder of the impact of the tragic world event on the community and also for its architectural interest as a well executed memorial and a finely detailed sculpture of a First World War soldier. The memorial is constructed from sandstone with a tapered pillar on a stepped base topped by sandstone figure. The Parish Council and community are keen to carry out the work to repair the structure and this is particularly important given the centenary celebrations taking place over the next 5 years.

As a result of weathering, traffic vibration and ageing of the stone, the memorial needs repairing. It is in need of underpinning due to a significant lean and the plinth requires fixing together to prevent any further movement. It may be required to replace some stone but at this stage until the work begins and the contractors can fully investigate this is not known. The Parish Council are also going to clean the memorial and tidy up the stone wall base and railings.

The total cost of the work is £16,958 including VAT. Eligible costs (excluding cleaning and the railings) are £10,800 including VAT. The works are eligible for grant up to 20% of the total costs. The maximum grant that can be awarded is £5,000.

The views of the Conservation Advisory Working Party will be reported to the Planning Committee.

Financial Implications

There is sufficient funding to meet this grant application with approximately £30,000 in the Fund allowing for commitments and the Council's contribution to the Fund for 2013/14.

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Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund – 2 Court Walk, Betley, (Ref: 13/14014/HBG)

RECOMMENDATION:

That a grant of £2,250 be approved for the repair of part of the former kitchen garden wall at 2 Court Walk, subject to the appropriate standard conditions and a specific condition that the height of the wall should remain the same as existing.

Purpose of report

To enable members to consider an application for financial assistance towards the cost of the repair of part of the former kitchen garden wall to Betley Court.

The grant application is for the partial rebuilding and refurbishment of a section of the kitchen garden wall at Betley Court (Grade II*) a former large house and estate built in the early 18th Century.

A section of this wall fell down overnight in the garden of Roche House in February last year and its rebuilding was awarded a grant from the Council's Conservation and Heritage Fund for rebuilding. It has since been restored. This structural failure prompted other householders with a section of this wall in their garden to arrange for a check of the stability and safety of their section of the wall by a structural engineer. The section to the north of 2 Court Walk bordering the garden of Swithland and Summerhouse properties has been improved by buttresses at the owner's expense. The section on the northern boundary of the gardens of Summerhouse and Roche House is in a good state of repair. A section which appears to have structural problems is an archway and section to the south in the garden of Orchard House but the owner is not interested in resolving this issue at present. A plan indicating the various sections of wall referred to above will be displayed at the meeting.

The section of wall at 2 Court Walk is over 4 metres high on the external elevation and approximately 2.5 from within the garden. An 11.5 metre long section of the wall needs to be taken down to ground level and rebuilt with piers for support; The height of the wall will remain the same; a middle 10 metre long section will have 3 buttresses added along its external side and the final 10 metre long section will be strengthened with 'helibars' – a proprietary steel reinforcing bar that is placed into cut slots within the masonry. Bricks will be reused and redressed where possible and replaced with new Cheshire matching bricks where not possible. The whole wall is to be repointed with lime mortar. The rebuilding element of the wall requires planning permission and this application (14/00156/FUL) has now been lodged with the Council and was considered by the Working Party at its meeting on the 25th March when no objections were raised.

Walls are part of the character of Betley village and the Betley Court estate buildings and walls dominate the southern part of the village as set out in Betley Conservation Area Appraisal. The structure is an imposing feature, which will still retain its presence as a significant heritage asset within Betley Conservation Area. This heritage asset is one which the Council has already supported in giving a grant to Roche House and the wish is to ensure that the whole asset is retained for the future as a reminder of the historical influences and development of the village.

The engineered solution, as proposed in the planning application enables the wall to be retained. It will cost over £20,000 to restore it and make it safe. Two competitive tenders have been obtained as required by the Scheme. 10% of the cost of the works (the sum works to this type of building/structure are eligible for under the grant scheme) equates to £2,250.

The views of the Conservation Advisory Working Party will be reported to the Planning Committee.

Financial Implications

There is sufficient funding to meet this grant application with approximately £30,000 in the Fund, allowing for commitments and the Council's contribution to the fund 2013/14.

APPEAL BY MR AND MRS G TURNOCK AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A FIVE-BEDROOM DETACHED HOUSE ON LAND ADJOINING NO. 20, THE AVENUE, KIDSGROVE

<u>Application Number</u>	13/00190/FUL
<u>LPA's Decision</u>	Refused by delegated powers on 3 May 2013
<u>Appeal Decision</u>	Allowed
<u>Date of Appeal Decision</u>	5 March 2014

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00190/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be whether the proposal would prejudice the retention of trees of amenity value growing within or close to the appeal site. In allowing the appeal, the Inspector made the following comments:

- To the south of the appeal site and set at a higher level on an embankment are trees, part of a wooded area protected by a group Tree Preservation Order and within which is Acres Nook Nursing Home. Trees within the curtilage of No. 20, The Avenue are also protected, some of which are within or immediately adjacent to the appeal site.
- Proposals for a detached house on the site were dismissed at appeal in 2010. The appeal was dismissed on the basis that the scheme would prejudice the retention of trees which make a positive contribution to the area's appearance and character and whose public amenity value is recognised through their inclusion in Tree Preservation Orders.
- In dismissing that appeal the Inspector noted the positioning of the proposed house to the north of the fairly dense area of woodland beyond the site. Together with retained trees within the appeal site he considered these would have a significant effect on the amount of daylight and sunlight reaching the site; the proximity of the house to trees of considerable size and maturity would create a gloomy living environment. This would result in pressure from the dwelling's occupiers to undertake works to protected trees that would reduce the contribution they make to local amenity.
- A Daylight and Sunlight Study accompanied the present proposal, something which was not available with respect to the previous appeal decision. The Study concluded that in terms of interior daylighting all rooms would meet or surpass the BRE Average Daylight Factor targets. It was considered that the Study provides a useful empirical pointer to the level of natural lighting that would be experienced within the dwelling.
- The Inspector noted that the study was completed before the removal of two trees within or close to the site. As such, it is likely that these factors could improve the results that would be obtained in terms of lighting. Given these factors and the detailed study, the Inspector was not convinced that the proposal would provide an overly gloomy or oppressive living environment within the dwelling.
- The Inspector also recognised that what would be the principal private garden area associated with the house would be dominated and shaded by existing trees but in his judgement this would not be to an extent that would make the area unpleasant or unusable, especially since the removal of one of the trees on the site. The protected trees here are deciduous with high canopies and for seven months or so of the year when the trees are not in leaf the immediate garden environs of the site would not be markedly dull or oppressive.
- The Inspector was not persuaded that overall the Council would have particular difficulty in resisting calls to carry out unacceptable works to nearby protected trees on the basis of their shading or oppressiveness.
- On balance, in light of the evidence before him and the changed circumstances since the previous appeal decision, the Inspector concluded that subject to the imposition of appropriate conditions, the proposal would not seriously prejudice the retention of trees of amenity value growing within or close to the appeal site.

Recommendation

That the decision be noted.

APPEAL BY GILLIAN DIBB (OF ASDA STORES LTD) AGAINST THE DECISION OF THE COUNCIL TO REFUSE ADVERTISEMENT CONSENT FOR A FREESTANDING SIGNAGE TOWER AT WOLSTANTON RETAIL PARK, NEWCASTLE-UNDER-LYME

<u>Application Number</u>	13/00366/ADV
<u>LPA's Decision</u>	Refused by delegated powers on 2nd July 2013
<u>Appeal Decision</u>	Allowed
<u>Date of Appeal Decision</u>	7th April 2014

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00366/ADV) and the following is only a brief summary.

The Inspector considered the main issue is whether the advertisement would be an intrusive and prominent feature to the detriment of the visual amenity of the area. In allowing the appeal, the Inspector commented as follows:

- There is a clear commercial purpose for the proposed signage, but there is also a highway safety issue whereby the absence of adequate signage for drivers trying to find the park may lead to uncertainty and potential accidents.
- Although the embankment is heavily landscaped both the existing and the proposed signs are / would be located in a more sparsely planted gap. The landscaped boundaries to the A500 are an attractive feature of the area and considerably soften and enhance the image of an area that has previously been scarred by industry and dereliction. Nevertheless, whilst the signage tower would be a notable feature on the embankment it would occupy only a small fraction of the landscaped frontage. Its benefits considerably outweigh any suggestion that it would be an intrusive feature.
- The appellant has sought to acknowledge the industrial heritage of the area and this particular site by designing the advertisement as a pit-head winding gear structure incorporating a colliery wheel. It would therefore be distinctive and contribute to the character of the area and it would be seen against the trees.
- Having regard to the above, and to all other matters raised, the advertisement would not be an intrusive and prominent feature to the detriment of the visual amenity of the area.

Recommendation

That the decision be noted.

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PLANNING PERFORMANCE CONSULTATION

Proposed response to a Government consultation

Purpose of the Report

To advise members of a consultation by the Government on Planning Performance and to provide the Committee with an opportunity to make comments to the Government in response to this consultation

RECOMMENDATION

That the Head of Planning and Development in consultation with the Chairman and Vice Chairman draws up and submits responses to each of the questions posed by the Government on the basis of the views indicated in this report and any other comments agreed by the Committee

Summary

1. The August Statement 2013 included a commitment to consult on a new threshold for designating local planning authorities as underperforming.
2. Members may recall a government consultation being reported to the Planning Committee at its meeting on the 2nd January 2013 when the original criteria for designation were being consulted upon. The Government following that consultation published the criteria for designation in June 2013. There are at present two thresholds for designation – one relating to the speed of decision making and the other relating to appeal performance. Both deal only with applications for ‘major’ development
3. The Government are proposing that the threshold for designating authorities as underperforming, based on the speed of deciding applications for major development should increase to 40% or fewer of decisions made in time. They indicate that the threshold may be raised further at a future stage. They are also proposing that the criteria for designation would set out the types of exceptional circumstances that may be taken into account, prior to designations being confirmed.
4. Designation allows applicants for planning permission to apply directly to the Planning Inspectorate. The full consultation paper can be viewed via the following link www.newcastle-staffs.gov.uk/planning/planningperformance
5. The consultation ends on the 4th May 2014

Introduction

6. In introducing this consultation the document indicates that:-
7. *Timely and well-considered decisions on planning applications are a key part of delivering an effective planning service. Applicants as well as local communities, should be confident that decisions on proposals will be reached within a reasonable period of time – whether that is within the statutory timescale or a longer period agreed transparently with the local planning authority. Equally, all parties should have confidence in the quality of the decisions made on applications for development – that all relevant considerations are being taken into account, and that the weight being given to different considerations is reasonable in the context of national and local policies. The Secretary of State has the power to designate local Planning authorities if he considers their performance in handling planning applications has fallen below*

an acceptable standard. Any designations of local planning authorities must be made by reference to criteria published by the Secretary of State. The published criteria relate to the speed and quality of decisions on applications for major development.

8. *The Government believes that the thresholds for acceptable minimum standards of performance against these criteria should be kept under review, to take into account changing circumstances and encourage continuing improvement in service standards. This consultation proposes changes to the threshold for speed, as well as proposing to clarify the way in which any exceptional circumstances affecting performance will be taken into account.*
9. *The existing threshold for identifying under-performance in the speed of determining applications is low, at just 30% or fewer of an authority's decisions on applications for major development made on time. 'On time' means within the statutory period of 13 weeks (or 16 weeks for applications subject to Environmental Impact Assessment), or such longer period as has been agreed in writing between the local planning authority and the applicant.*
10. It is said that a low threshold was used originally for a number of reasons. Because the two year period over which performance was to be assessed started before the announcement of the policy (and local planning authorities could not remedy past failings), the threshold was set at a level that would only affect cases of very poor performance, in the context of a national average of fewer than 60% of major decisions being made on time. The low threshold also reflected the fact that prior to April 2013 the data recorded by DCLG did not fully reflect agreed extensions of time
11. The next full round of designations, due to be made in October 2014, will be based on performance from July 2012 to June 2014. The intention to designate under-performing authorities has been known for the great majority of this assessment period, as have the thresholds that might be applied and the Government's intention to raise the threshold for speed of performance after the first year. The majority of the data used to inform designations in October this year will also reflect agreed extensions of time on applications for major development.
12. Taking these changes into account – and to encourage further improvement – the government think it would be appropriate to raise the threshold for designating authorities as under-performing, based on the speed of decisions, from 30% to 40% made on time. This threshold would be used for any designations in October 2014, for both district and county matter authorities.
13. A series of questions are then posed
14. **Question 1: Do you agree that the threshold for designating authorities as under-performing, based on speed, should increase to 40% or fewer of decisions made on time?**
15. **Your Officer fully accepts that timeliness is an important consideration and indeed the Planning Service has continued to focus over the years on timeliness, upon occasion to the concern of both applicants and third parties. However given the seriousness of the implications of designation and the likelihood that an increasing number of Local Planning Authorities will fall below the threshold that is being promoted in the consultation, the arbitrary nature of the measure of speed justifies comment. For example a situation could arise whereby despite the parties having agreed over a period of time that the statutory period can be extended, right at the end of that period, the applicant's agreement to a relatively minor further extension is not provided and as a result the decision is then considered not to have been made in time.**
16. The Government indicate that they expect the extent to which applications for major development are decided on time to continue to improve, especially if more effective

use is made of Planning Performance Agreements. In that context it would be appropriate for the definition of under-performance to continue to change as well. How quickly this happens will depend on the overall trend in performance, but they are interested in views on when and by how much the threshold might rise in future, beyond the move to 40% proposed above.

17. **Question 2: Do you think there is scope to raise the threshold for under-performance above 40% (for example to 45% or 50%); and, if so, by when?**
18. **Your officer would have to point out the potentially significant consequences of such moves. It is likely to simply lead to some local authorities “gaming” the system. If the government understand that to be the case then so be it, but the fear is that they are so removed from the reality of the process of completing legal agreements and similar that they misunderstand the potentially perverse consequence of the approach that they are taking**
19. The Government say that they have looked again at whether it is appropriate to exempt authorities that have dealt with very small numbers of applications for major development from designation. In principle it should be possible to deal with all such applications ‘on time’, whether this is within the relevant statutory period or – where necessary – within a longer period agreed with the applicant. At the same time they say that they accept that one or two decisions that run over time during the assessment period are insufficient to point to a record of under-performance. They therefore propose to exempt authorities that have dealt with no more than two major applications per two year assessment period from designation.
20. **Question 3: Do you agree that authorities that have dealt with no more than two applications for major development, over the two year assessment period, should be exempt from designation based on their speed of decisions?**
21. **Your Officer would suggest that this threshold is being set far too low – the statistical significance of a single application being determined out of time being considerable even if the threshold were set at say 10 applications over the 2 year assessment period**
22. Before any decisions to designate authorities are confirmed, they will be given an opportunity to explain any exceptional circumstances which, in their view, would make a designation unreasonable. What constitutes an ‘exceptional circumstance’ cannot, by its very nature, be defined fully in advance, but they think it would be helpful to set out the general tests that will be applied in considering such cases.
23. Consequently, they propose to include the following tests within the criteria document:
 - (a) Whether the issue significantly affects the reasonableness of the conclusions that can be drawn from the recorded data for the authority, over the assessment period;
 - (b) Whether the issue had a significant impact on the authority's performance, for reasons that were beyond its control.
24. They say that they will, in considering the first of these tests, take into account corrections that need to be made to the data, where authorities can provide clear evidence that such changes are justified.
25. **Question 4: Do you agree that the tests set out at paragraph 23 of this report are appropriate for taking exceptional circumstances into account, prior to designations being confirmed?**
26. **Your Officer would suggest that the very introduction of an opportunity to plead exceptional circumstances exemplifies the simplistic nature of the measure**

AFFORDABLE HOUSING CONTRIBUTIONS CONSULTATION

Proposed response to a Government consultation

Purpose of the Report

To advise members of a consultation by the Government on proposals to introduce a threshold for affordable housing contributions obtained through Section 106 planning obligations and to provide the Committee with an opportunity to make comments to the Government in response to this consultation

RECOMMENDATION

That the Head of Planning and Development in consultation with the Chairman and Vice Chairman draws up and submits responses to each of the questions posed by the Government on the basis of the views indicated in this report and any other comments agreed by the Committee

Summary

1. The August Statement 2013 included a commitment to consult on a proposed new 10 –unit threshold for Section 106 affordable housing contributions. The Government are now advancing proposals relating to the promotion of housing delivery by introducing a threshold for Section 106 affordable housing contributions. The full consultation paper can be viewed via the following link www.newcastle-staffs.gov.uk/planning/affordablehousingcontributions. The consultation paper also deals with the issue of planning performance which is addressed in a separate report to the Committee
2. The closing date for responses to this consultation is 4th May 2014

Introduction

3. The proposal is to introduce a 10–unit and 1,000 square metres gross floor space threshold for affordable housing contributions through Section 106 planning obligations. It is suggested that this will aid the delivery of small scale housing sites and that rural exception sites will be excluded from this threshold. A significant proportion of all planning obligations are affordable housing contributions. Previous research found that affordable housing accounted for approximately half of the value of all planning obligations. The Government considers that such contributions for small scale sites, including for those wishing to build their own home, can make a scheme undeliverable.
4. In its 2013 Autumn Statement, the Government made a commitment to reduce the planning costs to developers; including through a proposed new 10-unit threshold for section 106 affordable housing contributions. This is said to help address the disproportionate burden being placed on small scale developers, including those wishing to build their own homes, and which prevents the delivery of much needed, small scale housing sites.
5. This consultation proposes that before any request for affordable housing contributions can be considered as part of a section 106 planning obligations agreement, authorities will have to have regard to national policy that such charges create a disproportionate burden for development falling below a combined 10-unit and maximum of 1,000 square metres gross floor space threshold.

6. This change in policy would restrict the use of section 106 planning obligation contributions where sites contain 10 units or less with a maximum combined gross floor space of 1,000 square metres. It is proposed to include a maximum total floor space in combination with a unit threshold to avoid creating a perverse incentive in terms of construction density.
7. It is indicated that the Government is committed to providing access to affordable housing in rural communities. The Government envisage that so called Rural Exception Sites can provide affordable housing in rural areas on land that would not otherwise be acceptable for development. These tend to be developments of ten or fewer homes. These sites are crucial in providing cheaper land for affordable homes in areas where development costs tend to be higher. National policy will make it clear that Rural Exception Sites are outside the scope of the proposed 10-unit and 1000 square metres gross floor space threshold.
8. **The Government are seeking views on whether their objective of aiding the delivery of small scale housing sites and expanding the self build housing market is supported by:**
 - **the introduction of a 10-unit and 1000 square metres gross floor space threshold for section 106 affordable housing contributions; and**
 - **the exclusion of domestic extensions and annexes from section 106 affordable housing contributions?**
9. Your Officer's recognises that viability is a critical consideration in the delivery of housing. That said Local Planning Authorities ought to be able to take into account issues of viability in normal development management procedures. The Borough Council's Supplementary Planning Document on Developer contributions expressly allows for this. Your officer does however acknowledge that undertaking a full viability appraisal for smaller developments (at a cost to the developer) can in turn impose a further cost upon the development – particularly where there may be uncertainty about whether planning permission is going to be granted, and officers are examining whether there are realistic and reliable alternatives to such full independent viability appraisals.
10. In that context members' attention is drawn to the fact that the Borough Council's Affordable Housing Supplementary Planning Document, whilst it has a threshold of 15 units above which affordable housing is normally sought, in the rural areas this threshold is 5 dwellings. If the proposals contained within the Government's consultation were to come to pass, there would therefore be some impact upon the number of affordable housing units that might result from developments within rural areas. That said a preliminary analysis of planning permissions has identified that in the last 3 years, only 2 application within the rural areas, below the 10 unit threshold met the affordable housing requirement. Based upon past trends, the effect of this 10 units threshold may be relatively limited.
11. Nevertheless it is disappointing that the Government are bringing forward proposals that do not in substance allow for local discretion and judgement.
12. The remainder of the consultation is principally concerned with the potential implications of such a decision for CIL which it is not proposed to address in this report.

DECISION

Report to planning committee

COMMITTEE: Planning Committee

TITLE: Town & Country Planning Act 1990
Town & Country Planning (Trees)
Regulations 1999
Tree Preservation Order No.152 (2013)
Tree Preservation Order No 152 (2013)
The former Diglake (Audley) Colliery site,
Bignall Hill, Newcastle under Lyme,
Staffordshire

SUBMITTED BY: Head of Operations

1 Purpose

- 1.1 To advise members of the Planning Committee that the above order was made using delegated powers on 30th October 2013, and to seek approval for the Order to be confirmed as amended.

2 Background

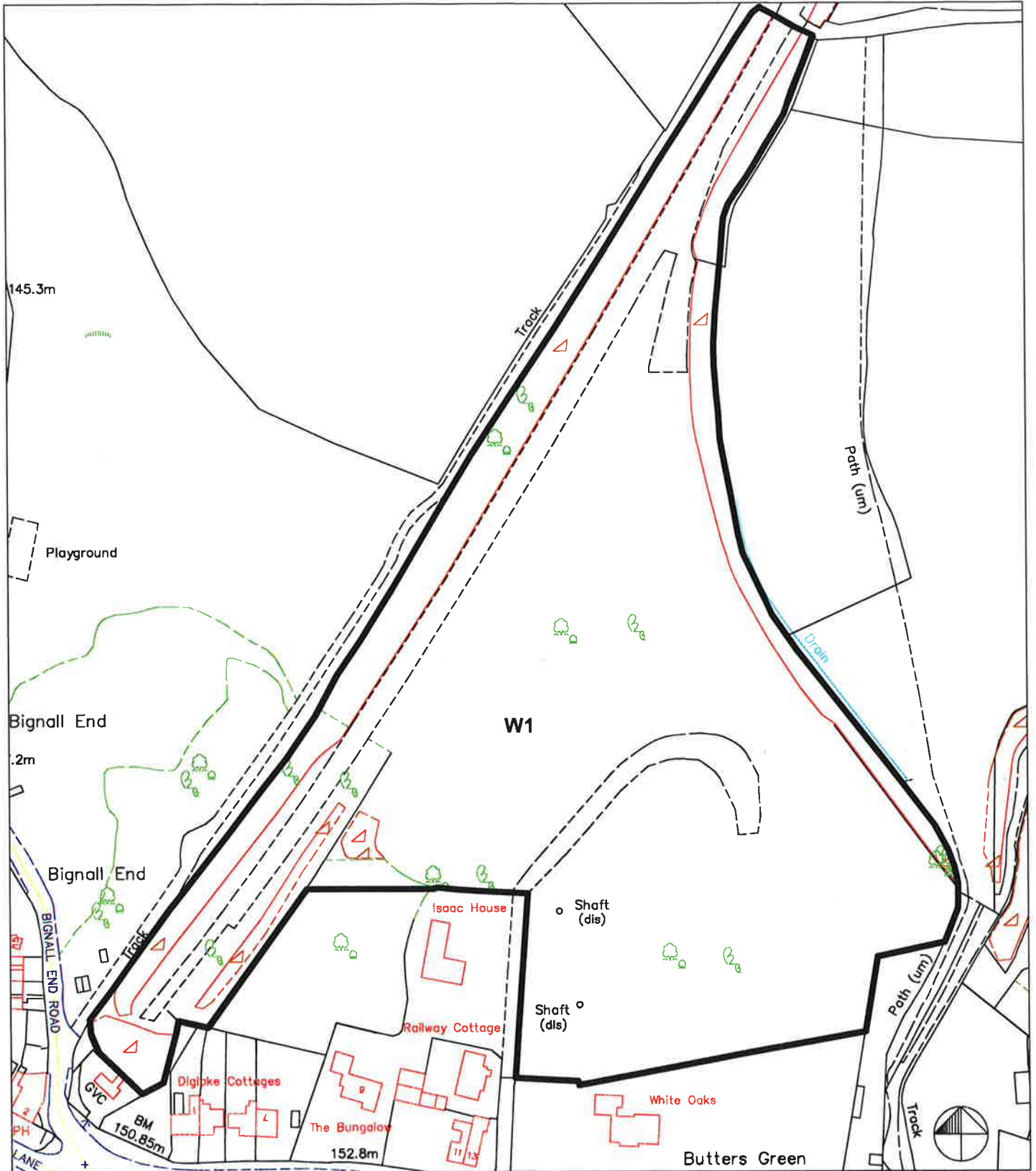
- 2.1 During October 2013 your officers received telephone calls from a number of local residents expressing concern that tree felling was underway in an area of woodland on the old Diglake Quarry site.
- 2.2 Your officers inspected the site and a Tree Preservation Order was made on 30th October 2013. The order is to safeguard the long-term visual amenity that the woodland on the site provides following concern for its future through a threat of felling.
- 2.3 The woodland is clearly visible from public footpaths Audley 80, Audley 92 and Audley 113
- 2.4 The woodland acts as a backdrop feature when viewed from Bignall End Road and from the playground and playing fields on the adjacent public open space. The woodland is also visible from the publicly accessible Wedgwood's Monument (Red Street).
- 2.5 The Forestry Commission National Office is dealing with the matter of the felling and will notify the borough council of any outcome.
- 2.6 Following the publicity process, three representation letters were received. One was in full support of the Tree Preservation Order, the other two raised the following issues of concern:

- a. Concern about a future need to prune trees to gain access for high sided vehicles along Binder Lane to a neighbouring property.
- b. Concern about a future need to have to apply to complete woodland management works to trees that are within a section of woodland that is adjacent to the affected woodland which has not been affected by the tree felling.

- 2.7 Following the representations your officer made a site visit to assess the matters raised.
- 2.8 In response to issue (a), the affected trees that overhang the driveway are within the ownership of land on which the felling occurred. As a result it is not considered appropriate to adjust the boundary of the area affected by the order.
- 2.9 It would be possible for either the owner of the woodland or the owner of the affected property to continue to prune the affected trees up the current height of 5 meters to high sided vehicle access; however an application to the local authority would need to be completed in the first instance.
- 2.10 In response to issue (b), the affected trees are within a section of woodland that is outside the ownership of the land upon which the tree felling is occurring. A site visit showed that these trees have had only minimal but appropriate works carried out in the past and this section of woodland is not under any threat from felling.
- 2.11 Your officer considers that it would be appropriate to amend the order to remove the section of woodland that is affected by issue (b) from the confirmed order.
- 2.12 Your officers are of the opinion that in order to protect the long-term well being of the woodland, it should be protected by a confirmed Tree Preservation Order.

Recommendation

That Tree Preservation Order No 152 (2013) is confirmed as amended and that the owners of the trees are informed accordingly.



DAVE ADAMS
 EXECUTIVE DIRECTOR –
 OPERATIONAL SERVICES
 CIVIC OFFICES, MERRIAL
 STREET
 NEWCASTLE, STAFFORDSHIRE,
 ST5 2AG

TITLE:
 FORMER DIGLAKE (AUDLEY) COLLIERY SITE

DESCRIPTION:
 TREE PRESERVATION ORDER NUMBER 152

DRAWN BY:
 SES

SCALE:
 1:1,250

DATE:
 OCTOBER 2013 as
 amended April 2014

DRAWING NO.:

TPO 152

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Cheshire East Council: Local Plan Strategy – Submission Version

Purpose of the report

a) To highlight the formal publication of the Submission version of the Cheshire East Local Plan Strategy for consultation purposes and to agree the content of a proposed joint response between Newcastle-under-Lyme Borough Council and Stoke-on-Trent City Council so that this can be taken into account by Cheshire East Council by the formal representation period deadline.

Recommendations

1) That the Committee endorse the content of this report and that it forms the basis of the Borough Council's formal joint response to the consultation on the Submission Local Plan Strategy within the required timescale.

2) That delegated authority is given to officers to agree a joint response to the consultation with Stoke-on-Trent City Council.

Reasons

The Cheshire East Local Plan Strategy is a Development Plan Document that will form part of the Local Plan for Cheshire East. It sets out the case for sustainable economic growth and will have implications for the management of development in Cheshire East up to 2030. This stage of consultation presents the final opportunity for the Borough Council to comment on the development strategy for Cheshire East prior to its submission for independent examination to the Planning Inspectorate. For the Borough Council's comments to be taken into account they must be submitted to Cheshire East Council by 25 April 2014.

1.0 Background

1.1 Cheshire East Council has published its 'Local Plan Strategy – Submission Version' prior to its submission to the Secretary of State for formal Examination in Public later this year (possibly in the autumn). The Local Plan Strategy sets out the Council's case for sustainable economic growth and is the strategy that the Council wants to adopt to manage development in Cheshire East up to 2030.

1.2 The Borough Council, as a neighbouring authority, has been invited to submit representations on the Local Plan Strategy – Submission Version and accompanying documents. The formal representation period ends on 25 April 2014. If the Borough Council does not submit any representations then it loses any right to appear at the public examination stage.

1.3 Once the Plan has been formally submitted to the Planning Inspectorate, it will be assessed against the four 'tests of soundness' set out in Paragraph 182 of the National Planning Policy Framework and detailed in section 1.4 below. At this stage all representations must therefore focus on issues of **legal compliance** (e.g. that the duty to cooperate requirement has been complied with) and **soundness** and how the development strategy meets these tests.

1.4 The grounds of soundness are:

1. **Justified:** founded on a proportionate evidence base and the most appropriate strategy when considered against the reasonable alternatives;
 2. **Effective:** deliverable and based on effective joint working on cross boundary strategic priorities;
 3. **Consistent with national policy:** enabling the delivery of sustainable development;
 4. **Positively Prepared:** the plan should be based on a strategy which seeks to meet objectively assessed development and infrastructure requirements.
- 1.5 Copies of all documents can be accessed online at www.cheshireeast.gov.uk/localplan. A copy of the 'Key Diagram' showing the key strategic proposals will be made available in the Members room.
- 1.6 The Borough Council has been involved in discussions with Cheshire East Council for over two years and has made representations at each key stage of consultation in the production of their Local Plan Strategy. Key correspondence, including all minutes of meetings between the Cheshire East Council and the Borough Council relevant to duty to cooperate matters and all correspondence including letters of representation submitted to Cheshire East Council are set out in Cheshire East Council's 'Local Plan Strategy Duty to Cooperate Statement of Compliance Further Draft March 2014', which can be downloaded from the following address:
<http://cheshireeast-consult.limehouse.co.uk/portal/planning/cs/sub>
- 1.7 Members will recall that the most recent consultation ended in December 2013 and related to the 'Pre-submission' version of the Local Plan Strategy. The Cheshire East Full Council report, dated 28 February, 2014 provides a detailed summary and assessment of all the issues raised by respondents to the consultation on the Pre-submission development strategy. The 'Submission Version' has been refined to reflect this consultation. However the strategic site proposals for Crewe and Alsager have not changed significantly. The most notable changes are the identification of a defined boundary for the proposed new settlement, near Crewe Hall and a significant reduction in the proposed size of the White Moss Quarry site allocation, on the edge of Alsager.

2.0 Summary of the Local Plan Strategy

- 2.1 Central features of the Local Plan Strategy, which have the most potential to impact on the borough and north Staffordshire Conurbation include:
- A growth led vision for Crewe, which includes the development of 50 ha of employment land;
 - Expansion of the South Cheshire/North Staffordshire Green Belt to ensure the long term separation of settlements;
 - A new urban extension in Alsager at White Moss Quarry;
 - Development of a new settlement in the vicinity of Crewe Hall, now referred to as the South Cheshire Growth Village;
 - An extension at Radway Industrial Park, Alsager;
 - Identification of an area which any future proposal for High Speed 2 (HS2 2) may impact on; and
 - A500 Barthomley Link road improvements.

- 2.2 The Plan for Cheshire East maintains the commitment to provide a minimum **27,000** new homes and **300 hectares** of employment land and follow the medium growth strategy. This development is split across Cheshire East and remains focused on Crewe (7,000 homes) and Macclesfield (3,500) as the two main urban centres. Large development levels are also identified for the key service centres of Congleton (3,500) and Alsager (1,600). Appendix A: *Proposed Growth Distribution* of the Local Plan Strategy Submission Version provides a summary of the proposed growth distribution and also includes the latest completion and commitment (developments that already have permission) figures. When account is taken of the completion and commitment figures the total new homes to be delivered by 2030 increases by 6% to **29,128** (Table A.6 *Housing Distribution: Totals*). Similarly the employment land figure increases, albeit to a much lesser extent, to **353.63** hectares. (A.12 Employment Land Distribution: Totals).
- 2.3 A 'stepped' approach towards delivery of development over the plan period 2010-2030 is set out in Policy PG 1 *Overall Development Strategy*. It is proposed to deliver an average 1,350 dwellings per annum rising from 1,200 per annum in the first phase (2010-2015) to 1,500 in the last phase (2025-2030). To help manage this delivery the take up of land the Local Plan Strategy indicates how each strategic will be phased across the 20 year plan period.
- 2.4 It should also be noted that a further allowance of 500 dwellings has been added during the period 2021- 2030 to help meet the housing needs of High Peak Borough Council a neighbouring authority within the Peak District National Park (not included in the average 1,350 dwellings). This increases the **proposed housing requirement** to **27,500** dwellings. Cheshire East Council has agreed to this on the basis that they consider they have a high synergy with High Peak Borough Council and that the amount of housing is within the parameters of the medium growth strategy.
- 2.4 Members may also wish to note that through a series of detailed discussions with Cheshire East Council, based on our duty to cooperate, it has been established that the Borough Council and none of the other authorities in north Staffordshire are in a position to assist in accommodating Cheshire East's housing requirements.
- 2.5 High Speed 2
- 2.6 The Local Plan Strategy and supporting material now includes clear statements on High Speed Rail (HS2). As Members are no doubt aware the Government's current plans for HS2 include a route through Crewe Station with a partial connection to the West Coast mainline. This is identified as a key strategic driver over the latter part of the plan period and central to the long term growth objectives for Crewe.
- 2.7 Apart from identifying an area which the HS2 infrastructure may impact on, the Local Plan Strategy does not include any specific development proposals directly related to HS2. However, it is stated that "*the HS2 Project will prove decisive in supporting the case for higher growth levels to the south, in preference to the north of the borough.*" It is further acknowledged that it is likely that this development will be centred in and around Crewe, Alsager and Congleton and consequently section 15.21 of the Submission Version Plan states that, any future proposal for HS2 may trigger a review of the Local Plan.

- 2.7 Cheshire East Council in their 'High Growth City' document acknowledge the likelihood of significant further growth in close proximity to the boundary with north Staffordshire beyond 2030 should a HS2 Hub Station with a direct interchange become reality. In your officers' opinion, this could lead to previous proposals, which have been rejected by Cheshire East Council, such as the new village at Barthomley, and associated employment areas along the A500 corridor, being reconsidered. The joint consultation response and discussions relevant to the duty to cooperate will seek clarity on this very important matter and raise an objection to the possibility of further extensive growth in and around Crewe and Alsager. Certainly the risk of 'super growth' raise the stakes, in terms of the potential harm to north Staffordshire's economic development, should the current HS2 route go ahead.

3.0 Local Plan Strategy - Assessment of Soundness

- 3.1 Cheshire East Council, through its Local Plan, has an obligation to set guidelines and levels for new development and to allocate appropriate sites to meet objectively assessed needs.
- 3.2 Members may recall that at previous consultation stages the Borough Council has not objected to the overall level of growth and development, which is both considered to be reasonable in relation to the evidence on meeting the objectively assessed housing need whilst also allowing for continued economic growth and is consistent with the approach advocated through the National Planning Policy Framework at the national level. The proposal to accommodate an additional 500 dwellings to assist High Peak Council meet their housing requirement is considered to be a modest increase, within the parameters of the medium growth strategy, and as such is unlikely to undermine our urban regeneration effort. The reduced scale of development in the vicinity of Crewe and Alsager (as set out in the Pre-submission Strategy reported to Members in December 2013 and maintained in the Submission Version), now includes a proposed reduction in the total number of dwellings at White Moss Quarry from 750 to 350. This together with a clear commitment to designate an area to the south, east and west of Crewe as Green Belt and the proposal to take a 'stepped' approach to annualised housing targets, as set out in Policy PG1 *Overall Development Strategy* have all helped officers to form a view that the Local Plan has been 'positively prepared'.
- 3.3 Nevertheless the concern expressed, last time relating to a risk of overprovision of housing land in certain areas, remains. Cheshire East Council has included a buffer of 5% in accordance with National Planning Practice Guidance but it has only included a limited allowance for brownfield 'windfall' development (unforeseen sites) in the overall supply calculations in relation to Crewe urban area and Macclesfield. When an allowance is made for windfall development over the whole of the plan period, in line with the windfall allowance within Cheshire East's 5 year housing land supply figure, the likely provision of housing could increase beyond the 29,128 figure (completions, plus commitments, plus strategic sites and future site allocations) somewhere closer to 33,000-33,600. This would represent a 20%-22% overprovision on the 27,500 medium growth strategy and would actually exceed the 32,000 units proposed in the high growth scenario which Cheshire East Council say they have rejected. To put it simply the failure to include an appropriate allowance for windfall developments (contrary to National Planning Practice Guidance) means that Cheshire East Council is potentially at risk of significantly over providing.

- 3.4 Whilst it is acknowledged that there is a need to provide additional sites to ensure competition and choice it is noted that the justification for the inclusion of the sites such as the South Cheshire Growth Village focuses around the necessity to meet need in a high demand area. However, given the potential level of overprovision this does not appear to be justified, especially as windfall development will provide some extra flexibility.
- 3.5 Officers remain concerned about the effectiveness of the strategy due to the large volume of speculative planning applications that Cheshire East Council is experiencing. For example the White Moss Quarry Site, which has been given an allocation of 350 new homes, is currently the subject of an application for 1,000 new homes. The application (13/4142N), which was reported to Members of the Borough Council's Planning Committee last December is currently undetermined, but should the development be permitted, or allowed at appeal, there does appear to be a genuine risk of overprovision against the housing target. Furthermore while the proposal to phase some development to come forward during the last phase of the plan period (2025 – 2030), is an approach which should support the regeneration of north Staffordshire, it could be undermined if planning applications are determined on appeal (possibly as a result of successfully challenging Cheshire East Council's assertion that they have a 5 year housing land supply). Officers therefore consider for the Local Plan Strategy to be sound that Cheshire East Council need to clearer about what is intended to happen in terms of the strategic allocation sites, should a significant amount of speculative housing be permitted prior to the adoption of the Local Plan. However, Cheshire East Council are at a relatively advanced stage in the preparation of their Local Plan Strategy and it is noted that the National Planning Practice Guidance now supports and recognises the fact that prematurity may provide a reason for refusal where the proposal is significant and it would prejudice a Local Plan which is at an advanced stage.
- 3.6 Furthermore, officers are concerned that there is a risk of overprovision of employment land, although to much lesser degree than housing. Policy PG 1 proposes to make provision for a minimum 300 hectares of employment land in support of the job led growth strategy. According to Cheshire East Council this is realistically attainable. Officers do not disagree that this is an appropriate figure, especially since the current completions and employment land supply require a further **182.9 hectares** to be found (as stated in Table 8). However, Table A.12 states that there will be provision of **353.63 hectares** over the plan period. Again it is recognised that a degree of flexibility is required to deal with future economic changes, increases in employment land losses, or increased demand, as well as, a level of choice for the market, but this would represent an overprovision of circa 18% on the level proposed in policy PG1 and is 8.4% above the top of the range that Cheshire East Council's Employment Land Review identified as being necessary to meet future need. This would again exceed the medium growth scenario advocated by the Local Plan Strategy, and whilst it would not in this instance provide the level of land required to hit the high growth output targets (unlike the residential supply) it would still represent significant overprovision.
- 3.7 There is therefore a very real chance that whilst the strategy to meet the objectively assessed needs of Cheshire East for housing and employment is positively prepared, the overprovision of land will not only have significant additional detrimental impact on north Staffordshire, but that it will undermine the Cheshire East Council's overall development strategy set out in Policy PG1. These inherent conflicts would lead officers to believe that unless the

aspects of housing and employment discussed above are not explained properly and if necessary rectified, then the Local Plan Strategy, in this regard, is not justified or effective and is therefore unsound.

4.0 Duty to Co-operate

4.1 Section 33A of the Planning and Compulsory Purchase 2004 Act (introduced by section 110 of the Localism Act 2011) imposes a duty on local planning authorities to cooperate with neighbouring authorities and other parties on strategic issues of common interest in preparing local plans. This duty to co-operate pervades all stages of local plan preparation. A specific requirement is placed upon the Inspector appointed by the Secretary of State to consider whether the local planning authority has complied with its duty to co-operate. If the Inspector considers that the local planning authority has not complied with that duty, then the Local Plan Strategy will fail, irrespective of whether it is found to be “sound” in other respects.

4.2 Over the course of the evolution and development of the Local Plan discussions have taken place between the Borough Council and Cheshire East Council, regarding strategic cross border priorities and possible impacts of the growth targets. Other Staffordshire authorities including Stoke-on-Trent City Council, Staffordshire Moorlands District Council, and Staffordshire County Council have been engaged in a number of these discussions. In this respect Officers consider that the preparation of the Local Plan Strategy is legally compliant.

4.3 In relation to the issues raised at the Pre-submission consultation stage, by both the Borough Council and Stoke-on-Trent City Council, Cheshire East Council consider that the use of windfall assumptions (in the order of 750) and buffer figures is clarified in the Local Plan Strategy - Submission Version, but, as can be seen above, officers consider that further clarification on this matter is required. However, it is accepted that material changes to the Local Plan Strategy have been made, which seek to address a number of the issues raised, for example both the South Cheshire Growth Village and the White Moss Quarry site have been reduced in size.

4.4 Issues which remain outstanding relate to migration patterns, travel to work areas and the cross boundary road and transport implications related to development at Crewe, Alsager and Congleton, as well as, HS2. Cheshire East Council intends to address this through on going joint working and will consider travel to work patterns as Census data is released. The justification to Policy CO 1 *Sustainable Travel and Transport* has been strengthened to specifically refer to pursuing improved transport connections with Staffordshire, although it is acknowledged by Cheshire East Council that further investigations of the impact of proposals on cross – boundary road and transport links is required.

4.5 It is in the Borough Council's interests that Cheshire East Council has a plan in place to positively guide development decisions as soon as practically possible. Continuing dialogue with Cheshire East Council will therefore be necessary to resolve all outstanding issues and to ensure that the Local Plan Strategy does not work to undermine local regeneration objectives.

5.0 Next Steps

5.1 Consultation on the Submission Core Strategy ends on 25 April 2014. It is proposed that a joint response is prepared with the City of Stoke-on-Trent if

members at both authorities come to a similar view, based on this report and any other points members feel are relevant.

- 5.2 Cheshire East Council will submit all representations received during the representation period to the Secretary of State for consideration by a Planning Inspector, following which more detailed work will commence on a Site Allocations and Development Policies and Waste Development Plan Document.
- 5.3 Cheshire East Council are in the process of drafting a Memorandum of Understanding with the purpose of demonstrating that they have complied with the duty to cooperate, pursuant to section 33A of the Planning and Compulsory Purchase Act, 2004, as amended, for submission to the Examination in Public of the 'Local Plan Strategy'.
- 5.4 In accordance with the Borough Council's Constitution a report on this matter will be submitted to the Council's Cabinet in due course. Your officers will use the preparation of this document as a means of engaging positively with representatives at Cheshire East, with the aim of:
 - Establishing what the authorities agree on;
 - Pinpointing the relevant areas of disagreement; and
 - Identifying what future work the two authorities are committed to with a view to resolving outstanding issues and concerns.

This dialogue will also serve a dual purpose of informing the preparation of the joint Local Plan with Stoke-on-Trent City Council.

Background Papers

- Cheshire East Local Plan Strategy Submission Version March 2014
- 'Local Plan Strategy Duty to Cooperate Statement of Compliance
- Further Draft March 2 Cheshire East Local Plan: Pre-Submission Core Strategy 014
- Cheshire East Council Full Council Report, February 2014
- 'All Change For Crewe' document
- Local Plan Strategy Overview document
- Cheshire East Local Plan: Pre-Submission Core Strategy
- Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy
- National Planning Policy Framework, March 2012
- National Planning Practice Guidance, March 2014
- Newcastle-under-Lyme Borough Council Planning Committee Report, December 2013

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Report on Open Enforcement Cases

Purpose of the Report

To inform members of the current situation regarding the enforcement caseload.

Recommendations

- That the report be received
- That a further update be provided alongside the next quarterly monitoring report on cases where enforcement action has been authorised.

Background

In accordance with previous Committee decisions, the format of this report shows existing and previous enforcement cases. The Table included in this report shows the total number of outstanding cases in one format (shown below).

In the last quarter a further 43 new cases have been reported, slightly more than the previous quarter (29). The number of open cases stood at 230 at the end of the quarter (17 more than at the end of the last quarter). The number of open cases has increased each quarter for the last three quarters and it would appear that this may becoming a trend. To break such a trend it is intended to work closely with the enforcement officer and planning officers and move cases forward to a point that they can be closed. An overall reduction in open cases can be reported in the next quarterly report.

Conclusions

It remains inevitable that some cases in the 'backlog' will remain open for some time because of their complexity.

Progress continues to be made in tackling older cases and there is still a significant body of work being undertaken behind the scenes, which has lead to progress in several complex cases. Officers' enforcement workload is regularly reviewed to ensure continuity and case progression, and will continue to be undertaken.

Current Outstanding Enforcement Cases

The Table below shows the current statistics in comparison to the previous Quarter.

Current Enforcement Status

Year	Total	Open	C1	C2	C3	BOC	L	M	H
2014	43	34	1	24	9	-	-	-	-
2013	219	92	7	67	17	-	-	-	-
2012	229	37	10	17	10	-	-	-	-
2011	204	12	2	7	3	-	-	-	-
2010	206	9	2	6	1	-	-	-	-
2009	233	11	-	6	2	1	-	1	1
2008	276	11	-	-	-	-	3	8	-
2007	353	6	-	-	-	-	1	4	1
2006	280	6	-	-	-	-	2	3	1
2005	227	3	-	-	-	-	-	1	2
2004	252	1	-	-	-	-	1	-	-
2003	244	1	-	-	-	-	-	1	-

2002	247	5	-	-	-	-	-	2	3
2001	204	2	-	-	-	-	-	2	-
2000	219	-	-	-	-	-	-	-	-

Open Cases **230**
(inc Backlog)

Previous Quarter 213

Note for Table – C1, C2 and C3 are the categories agreed by the Planning Committee at its meeting on 17th February 2009 when it approved the Council's Planning Enforcement Policy; BOC indicates that the case concerns a Breach of Condition, whilst L, M and H represent Low, Medium and High priorities respectively allocated to the pre-February 2009 cases

Officers will continue to make progress in tackling the backlog, whilst maintaining a manageable reservoir of new/existing cases at a sustainable level. A number of the above cases have associated pending planning applications awaiting determination (3 as of 3rd April 2014).

Date report prepared

4th April 2014

Planning Committee 22nd April 2014

QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED

The purpose of this report is to provide details of progress made on those cases where enforcement action has been authorised either by the Planning Committee or under delegated powers. Members should note that many breaches of planning control are resolved without recourse to the taking of formal enforcement action.

The case that was identified as being closed within the report to the Planning Committee meeting on the 28th January 2014 has been removed from the agenda. No further cases have been added since the previous report. Details of each case, and the progress made within the last Quarter, and the target for the next Quarter are contained within the attached Appendix.

A report on one of an open case where enforcement action has been authorised which contains information that is considered to be exempt by reason of the provisions of paragraphs 6 and 7 of Schedule 12A of the Local Government Act 1972, as amended, is provided separately.

RECOMMENDATION

That the information be received.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
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<p>02/00034/207</p> <p>T57/3/324</p>	<p>Back Lane/Bar Hill, Onneley</p> <p>Failure to comply with conditions attached to planning permission for infilling and formation of cricket pitch</p>	<p>20.11.2001 & 10.01.2006</p>	<p>Enforcement Notices issued in August 2010 requiring remedial works to be undertaken by 31 March 2012 to create a more acceptable landform and landscape surrounding the 'Cricket Club' Land. No appeal was made against the Notices which therefore came into effect. In the third quarter of 2010 planning permission 03/527/FUL was issued and a meeting held with the Cricket Club who confirmed intentions to comply fully with conditions of that permission.</p> <p>Visits confirmed progress on site, and the cricket club completed their second playing season. Submitted details to seek to discharge the conditions on permission 03/527/FUL were approved, and the application for a new pavilion (11/00477/FUL) was approved on 4 November 2011 (subject to further conditions).</p> <p>No indications received of any compliance with the Notice by owner of the adjoining land, although some works of compliance had been undertaken by other parties on that land, and offers of assistance had been given. Site visits indicated that progress continued to be made on the Cricket Club elements to comply with conditions imposed, however significant progress had not been made on the adjacent land outside of the Cricket Club's responsibility.</p> <p>"Final warning" letter sent but did not lead to any response and prosecution proceedings were commenced. This lead to two adjournments as reported to the Committee on 5 February 2013. As advised, a contractor was appointed by the landowner and works commenced on site on 21 February 2013 after delays for bad weather. Officers have attended the site on several occasions during the compliance works and report that the majority of the requirements of the Enforcement Notice have been complied with. All that remained as of 18 March 2013 is for a drainage ditch to be cleared and an overflow to be created, along with the final seeding of the site and it was agreed that work would recommence in early April 2013 when the weather and temperature would better help with the establishment of a grass sward. In light of the works undertaken, prosecution proceedings were withdrawn on 27 February 2013.</p> <p>Site visits have been undertaken subsequently, further landscaping works have been undertaken and the appearance of the site has improved to the point where it is considered the case can now be closed.</p>	<p>CASE CLOSED</p>
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Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
12/00193/207 C2	<p>19 Biddulph Road, Harriseahead, ST7 4LB</p> <p>Unauthorised extension of residential curtilage and erection of summerhouse/ garden shed</p>	26.02.2013	<p>The breach of planning control was identified by Officers following an enquiry from a prospective purchaser of 19 Biddulph Road. Site inspections confirmed that land to the rear of the properties had been enclosed and utilised as residential gardens without the benefit of planning permission. Officers advised that the submission of an application would be unlikely to be supported.</p> <p>Planning permission was applied for retrospectively under application 12/00780/COU for the change of use of agricultural land to garden land at 17 and 19 Biddulph Road. The application was refused. Officers wrote to the applicants on 26th February 2013 to seek a resolution on site and timetable for compliance prior to the service of any notice. At a member's request the matter was reported to Planning Committee on 26th March 2013 The Committee resolved to invite a new application for the change of use of the land to be submitted within 6 weeks.</p> <p>A joint application for 17 and 19 Biddulph Road was refused at the Planning Committee meeting on the 4th June on the grounds that the authority did not consider, in respect of the garden of 19 Biddulph Road, that the required very special circumstances existed that clearly outweigh the harm to the Green Belt and the landscaped. Additionally it was resolved that the Head of Legal Services be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council appropriate action and proceedings.</p> <p>An enforcement notice, dated 6th September, was served which was due to take effect on 16th October. An appeal has been lodged and Planning Inspectorate has confirmed that it will be considered at a Public Inquiry on 3rd June. Statement's of case on behalf of the Borough Council and the appellants have been exchanged and comments made by each party on the other party's case.</p> <p>Officer's are currently working with the appellant's on the preparation of a Statement of Common grounds and full proofs of evidence are being prepared for submission by 6th May in accordance with the Planning Inspectorate's time table.</p>	Comply with appeal timetable.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
13/00061/207 C2	21 Rathbone Avenue, Maybank Unauthorised Conservatory	4.6.2013	<p>A retrospective planning application was taken to Planning Committee meeting on the 4th June 2013 where it was resolved to refuse the application on the grounds that the development is harmful to residential amenity, of an overbearing appearance and of an inappropriate design for the house given its scale. Additionally it was resolved to authorise the Head of Central Services to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and proceedings as are authorised by, and under the Town and Country Planning Act 1990 to obtain the removal of unauthorised conservatory with the time period within which such step is to be taken to be determined by officers</p> <p>An enforcement notice was issued, dated 21st August 2013 and took effect on 23rd September 2013. The notice required the removal of the unauthorised conservatory by 23rd December 2013 and whilst the conservatory was not completely removed by that date it has now been confirmed that it has been removed and the Notice has been complied with.</p>	CASE CLOSED

<p>09/00230/207 Page 108</p>	<p>Newcastle Auto Centre Albany Road Newcastle Under Lyme</p>	<p>10/12/2013</p>	<p>Investigations have established that an unauthorised extension has taken place at the premises resulting in the loss of parking spaces which were required to be retained by condition of planning permission (06/00616/FUL). A retrospective application was invited on more than one occasion and whilst indications suggested that such an application would be submitted it was never received. Following consultation with the Highway Authority who raised highway safety concerns it was concluded that it was expedient to take enforcement action.</p> <p>An enforcement notice was issued, dated 11th December 2013 which takes effect on 17th January 2014. The notice requires the removal of part of the extension that is unauthorised and implement and develop in accordance with and pursuant to the conditions contained with planning permission 06/00616/FUL or the removal of the extension and reinstatement of the land to its previous condition by 17 July 2014.</p> <p>An appeal against the enforcement notice was lodged with the Planning Inspectorate on 09 January 2014. A hearing date has been scheduled 31st July 2014</p> <p>Statement's of case on behalf of the Borough Council and the appellants have been exchanged and comments made by each party on the other party's case.</p> <p>During the appeal process, the appellant has suggested that off site parking can be provided on other land in their ownership. Your Officer's are exploring the possibility of securing such parking through a S106 unilateral undertaking. If suitable off site parking is achieved the reasons for the taking of enforcement action will have been addressed and as such consideration will be given to the withdrawal of the Enforcement Notice .</p>	<p>Pursue, with the appellant, the completion of a S106 unilateral undertaking to secure off site parking.</p> <p>Continue to comply with the appeal timetable.</p>
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By virtue of paragraph(s) 6, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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