





**PLANNING COMMITTEE**

Tuesday, 24th June, 2014

**Present:-** Councillor Sophia Baker – in the Chair

Councillors Mrs Bates, D Becket, Braithwaite, Cooper, Fear,  
Mrs Hambleton, Northcott, Proctor, Miss Reddish, Stringer and  
Williams

**1. APOLOGIES**

Apologies were received from Councillors' Waring and White.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

**3. MINUTES OF PREVIOUS MEETING(S)**

**Resolved:-** That the minutes of the meeting held on 10 June, 2014  
be agreed as a correct record.

**4. APPLICATION FOR MAJOR DEVELOPMENT - LAND TO REAR OF FORMER  
RANGLES GARAGE, HIGHERLAND, NEWCASTLE; RANGLES (GARAGES)  
LTD/WILLARDWILLARD;**

**Resolved:-** That the application be refused for the following reasons:

- (i) The number of dwellings proposed and its three storey nature is inappropriate in this elevated position and would be harmful to the appearance of the area.
- (ii) The use of the proposed vehicular access by the number of residential units proposed and also the proximity of three storey development to neighbouring garden land will result in an unsatisfactory level of residential amenity for residents along Seabridge Road adjacent to the site.
- (iii) Without an appropriate secured financial contribution relating to public open space contribution the development would be contrary to policy on the provision of open space for residential development.

**5. APPLICATION FOR MAJOR DEVELOPMENT - LAND ADJACENT TO  
HAMPTONS METAL MERCHANTS, KEELE ROAD; PERSIMMON HOMES (NW  
LTD); 14/00269/FUL**

**Resolved:-** That the application be deferred to enable the Highway  
Authority to ask other bus operators whether they would visit the estate.

**6. APPLICATION FOR MAJOR DEVELOPMENT - PRIORY DAY CARE CENTRE,  
LYMEWOOD GROVE; MR N WESTON-EDWARDS & YU DEVELOPERS/CROFT  
ARCHITECTURE; 14/00284/FUL**

**Resolved:-** (i) That, subject to the applicant entering into a

Section 106 planning obligation securing a contribution to public open space provision/enhancement by the 23<sup>rd</sup> July 2014, the application be permitted subject to the undermentioned conditions:

- (iv) Time limit/Plans
  - (v) Materials
  - (vi) Tree protection measures
  - (vii) Implementation of the tree works specified
  - (viii) Retention of trees
  - (ix) Landscaping
  - (x) Construction hours
  - (xi) Construction and demolition management plan/ method statement
  - (xii) Protection of the highway from mud and debris
  - (xiii) Dust mitigation measures during demolition and construction
  - (xiv) Internal noise levels of dwellings
  - (xv) Contaminated land remediation
  - (xvi) Foul and surface water drainage provision
  - (xvii) Provision of access, parking, servicing and turning areas
  - (xviii) Retention of approved garages to be retained for parking of motor vehicles and cycles
  - (xix) Private road signage
  - (xx) Contaminated land remediation
  - (xxi) Removal of permitted development rights for boundary treatments, hardstandings, outbuildings and extensions for all plots
  - (xxii) Occupancy restriction to the over 55's and their dependents
- (ii) That, should the obligation not be secured by the due date, the Head of Planning and Development be given delegated authority to refuse the application unless it is considered appropriate to extend the period for completion of the obligation.

**7. APPLICATION FOR MAJOR DEVELOPMENT - CHATTERLEY GATEWAY NORTH PHASE 2, SITE 8; HARWORTH ESTATES & TRUSTEES OF PR POWELL/TURLEY; 14/00331/REM**

**Resolved:-** That the application be permitted subject to the undermentioned conditions:

- (i) Approved plans
- (ii) Importation of soil/material.

**8. APPLICATION FOR MINOR DEVELOPMENT - LAND ADJACENT 86 BUCKMASTER AVENUE; ASPIRE HOUSING/ELLIS HILLMAN; 14/00293/FUL**

This item was withdrawn.

9. **APPLICATION FOR MINOR DEVELOPMENT - TELECOMMUNICATIONS MAST, MOUNT ROAD, KIDSGROVE; VODAFONE/MONO CONSULTANTS; 14/00334/FUL**

**Resolved:-** That the application be permitted subject to the undermentioned conditions:

- (i) Commencement within three years
- (ii) Development being carried out in accordance with the approved plans
- (iii) Equipment cabinets to be finished in green.

10. **APPLICATION FOR MINOR DEVELOPMENT - KIDSGROVE (CENTRAL) RAILWAY STATION; STATION ROAD, KIDSGROVE; VODAFONE LIMITED/MONO CONSULTANTS; 14/00359/FUL**

**Resolved:-** That the application be permitted subject to the undermentioned conditions:

- (i) Commencement within three years
- (ii) Development being carried out in accordance with the approved plans
- (iii) Finished colour.

11. **APPLICATION FOR OTHER DEVELOPMENT - CLAYTON SPORTS CENTRE, STAFFORD AVENUE; NEWCASTLE AND HARTSHILL CRICKET CLUB; 14/00212/COU**

**Resolved:-** That the application be deferred to enable discussions to extend the hours of use of the car park.

12. **ANNUAL APPEAL REPORT**

Consideration was given to an annual report on the Planning and related appeals from April, 2013 to March, 2014.

- Resolved:-**
- (i) That internal management procedures within the Service including the assessment of case officers' recommendations by more senior officers continue to be applied;
  - (ii) That your Officer report to the Chair and Vice Chairman in six months time on appeal performance in the first half of the 2014/15, and on any further steps that have been taken in the light of that performance;
  - (iii) That the Committee reaffirms its previous resolution that Members draw to Case Officers' attention any concerns that they have with an application coming to the Committee for determination as soon as possible having received notice of the application in the weekly list, so that potential solutions to the concerns are sought with the applicant in line with the requirements of the National Planning Policy Framework;

- (iv) That the Committee reaffirms its previous resolution that full advantage be taken of the use of conditions in planning permissions to make developments acceptable;
- (v) That the Committee reaffirms its previous resolutions that Members proposing to move refusal of a proposal contrary to recommendation be urged to contact the Head of Planning Services no less than 24 hours before the Committee, with details of the reasons they are minded to give for such a refusal;
- (vi) That the Committee reaffirms its previous resolution that when a proposal to refuse to grant planning permission is made at the Committee contrary to the officer's recommendation, advice be sought as to the most appropriate way to meet the requirement to work in a proactive and positive manner with applicants;
- (vii) That the Committee reaffirms its previous resolutions that the mover and seconder of a resolution of refusal contrary to officer recommendation be identified by the Chair and recorded and in the event of an appeal being lodged there be an expectation that those members will make themselves available as witnesses on behalf of the Council in the appeal proceedings should either the Head of Planning Service or the Head of Central Services deem that appropriate; and
- (viii) That the Committee reaffirm its previous resolutions that a proactive approach be taken by officers to appeal handling with early holding of case conferences where appropriate, the strength of the case being continually reassessed in the light of any new evidence received, and that in the case of matters being determined by means of public inquiries the Head of Central Services or his representative takes charge of the matter.

**13. FIVE YEAR HOUSING LAND SUPPLY 2015 - 2019**

Members considered a report on the five year housing land supply assessment for the Borough of Newcastle under Lyme for 1 April, 2014 to 31 March, 2015.

Members stated that the Committee should receive regular reports (updates) so as to be continually involved in the conveyance of the new local plan.

An issues and options report would be brought back to the Planning Committee next year prior to going out to consultation.

**Resolved:-**

- (i) That the results of the five year supply report be noted.
- (ii) That the significance of the five year supply in

Development Management decision making be noted.

**14. MINERALS LOCAL PLAN**

Consideration was given to the new Minerals Local Plan for Staffordshire 2015 – 2030, on which the Borough Council had been consulted by the County Council.

- Resolved:-**
- (i) That officers, in consultation with the Chairman, submit a response to the County Council to the effect that the Borough Council has no particular observations to make upon the Consultation document.
  - (ii) That the Chairman be authorised to approve comments to be drawn up by the officers that may then be forwarded to the County Council as this Council's response.

**15. DISCLOSURE OF EXEMPT INFORMATION**

**Resolved:-** That the public be excluded from the meeting during consideration of the following item because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 6 in Part 1, Schedule 12A of the Local Government Act, 1972.

**16. Restricted Minutes of the Meeting held on 10th June 2014.**

**COUNCILLOR SOPHIA BAKER**  
**Chair**

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**LAND OFF PEPPER STREET KEELE**  
**KEELE HOME LTD**

**13/00970/OUT**

**The Application** is for outline planning permission for residential development for up to 100 dwellings. All matters of detail are reserved for subsequent approval with the exception of the means of access to the site, the details of which have been submitted for approval at this stage. The proposed access is off Pepper Street (B5044).

The site contains existing industrial commercial uses, a burning coal spoil tip, remains of a former farmstead, site of a former landfill site and agricultural land.

The total area of the site extends to approximately 13.8 hectares is within the Green Belt boundary and is also within an area of landscape restoration designation as defined by the Local Development Framework Proposal Map. The Haying Wood within the site is protected by Tree Preservation Order No. 1

**The 13 week period for the determination of the planning application expired on 21<sup>st</sup> March 2014.**

## **RECOMMENDATIONS**

### **A. Subject to**

**(i) the receipt and consideration of further advice from the District Valuer as to what affordable housing provision and financial contributions that this development could support, and a further report to the Committee on this aspect**

**(ii) the applicant entering into a Section 106 obligation by 15<sup>th</sup> September 2014 to require:-**

- 1. A contribution towards school spaces (the amount to be recommended following the outcome of (i) above) and the sum being able to be adjusted should the development as built be for less than the full 100 units;**
- 2. Affordable Housing provision (the level of which to be recommended following the outcome of (i) above);**
- 3. The entering into of a Management agreement to secure the long term maintenance of the public open space;**
- 4. A Travel Plan monitoring fee (the level of which to be recommended following the outcome of (i) above);**

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

- 1. Submission and approval of reserved matters.**
- 2. Time limit for the submission and approval of reserved matters and for commencement.**
- 3. Reserved matter submission to be informed by principles within the submitted Design and Access Statement and set out in the Master Plan (drawing no. 14-019-SK1001 Rev D dated Feb 2014).**
- 4. Prior approval of the full and precise details of the methodology for the remediation of the burning spoil heap, and that works are to be carried out in accordance with the approved details before development commences.**
- 5. Prior approval of full and precise details of the steps to be taken to protect public health and the amenity of residents and users of the woodland before any engineering works take place, and that works to be carried out in full accordance with the approved details.**
- 6. The residential development shall not be commenced until such time as it has been demonstrated that the fire has been extinguished and is unlikely to reignite.**
- 7. Contaminated land conditions to be satisfied for the area of the site to be developed for residential purposes and the area identified as public open space on the draft master plan (drawing no KEE8-1-001 Rev) if it is intended that this area will be accessible to the occupiers of the development and the wider public.**
- 8. Area identified as public open space shall be fenced off and access prevented unless the contaminated land conditions have been satisfied.**
- 9. Japanese Knotweed**
- 10. Construction Management Plan and restriction on the hours of construction.**
- 11. No impact piling on any part of the site.**
- 12. No external lighting without prior approval.**
- 13. The access to the development to be carried out in accordance with the approved plan SCP/12301/F01 Rev A.**
- 14. Notwithstanding the details shown on the approved plans no development, other than demolition, shall be commenced until revised access details indicating a minimum width of 5.5m for the first 10m from the carriageway edge should be submitted and approved and the access completed prior to first occupation and retained as such for the lifetime of the development.**
- 15. Prior approval of a Highways Construction Method Statement details the site compound with associated temporary buildings; parking of vehicles for site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; and wheel wash facilities.**
- 16. Prior to first occupation all private parking and vehicle access areas shall be hard surfaced in a porous material and drained in accordance with details that have been approved.**

17. Development shall not be commenced until such time as a scheme to limit the surface water run-off has been agreed.
18. Development shall not be commenced until a scheme to manage the risk of flooding from overland flow of surface water on the proposed development has been agreed.
19. Contaminated land conditions.
20. Piling or any other foundation designs using penetrative methods shall not be permitted unless it can be demonstrated that there is no resultant unacceptable risk to groundwater.
21. If during development, contamination not previously identified is found to be present at the site development to cease until a remediation strategy has been agreed.
22. Prior to commencement of development further intrusive site investigation works to be undertaken in order to establish the exact situation regarding the coal mining legacy issues on the site to be submitted and agreed, including any identified remedial works to treat the mine entries and/or areas of shallow mine workings to ensure the safety and stability of the proposed development
23. In the event that such site investigation works required by condition 22 confirm the need for remedial works, such remedial works identified shall be undertaken prior to commencement of the development.
24. Submission of a detailed arboricultural survey is undertaken and used to inform a landscape led final master plan which shall show the exact alignment of dwellings within areas of woodland using principles demonstrated in the draft master plan.
25. Submission of existing and finished levels.
26. Retained trees and root protection areas shown on a proposed layout plan.
27. Arboricultural Impact Assessment in accordance with BS5837:2012
28. Dimensioned tree protection plans in accordance with BS5837:2012
29. Schedule of works to retained trees
30. Arboricultural method statement in accordance with BS5837:2012
31. Full hard and soft landscaping proposals based upon principles identified in the Landscape and Visual Impact Assessment
32. Full landscape maintenance schedules.
33. All recommendations contained within the submitted ecological surveys to be complied with.

**B. Failing completion by 15<sup>th</sup> September 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 provide appropriate level of affordable housing which is required to provide a balanced and well functioning housing market, secure the on-going maintenance of on 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 Recommendation**

The proposal constitutes inappropriate development within the Green Belt. It is considered, however, that the extinguishing of the spoil heap fire, which has been burning since 2006 and which expert advice indicates could continue for a considerable period of time amount to the very special circumstances. Extinguishing the fire once and for all will secure benefits in the long term to health and the environment and the visual amenity of the area; and will quickly remove the risk to the safety of those that access the site, the consequences of which could be catastrophic, all of which clearly outweigh the harm to the Green Belt by reason of inappropriateness

The scheme is considered acceptable in terms of impact on landscape, highway safety and trees. Subject to the imposition of suitable conditions and appropriate financial contributions, it is not considered that there are any material considerations which would justify a refusal of outline planning permission. Advice now received suggests that the scheme cannot support a fully compliant proposal (in terms of the amount of Section 106 contributions and affordable housing). The final report of the District Valuer is awaited, however, and unless that report reaches a different conclusion there are certain options as to how any funding shortfall could be addressed. The final report of the District

Valuer and how the funding shortfall could be addressed will be reported, once the further advice of the District Valuer has been received.

**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**

Officers have worked with the applicant to address all issues of the site and the application 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:-**

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

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 S3: Development in the Green Belt  
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy E11: Development of Employment Land for Other Uses  
Policy T16: Development - General Parking Requirements  
Policy T18: Development – Servicing Requirements  
Policy C4: Open Space in New Housing Areas  
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 N17: Landscape Character – General Considerations  
Policy N21: Area of Landscape Restoration

**Other material considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (August 2013)

Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

Conservation of Habitats and Species Regulations (2010)

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

Supplementary Planning Guidance/documents

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

Space Around Dwellings (SAD) (July 2004)

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

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)

pdoesStaffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2008/09

### **Relevant Planning History**

04/01321/EXTN	Permitted 2009	Extension of time limit to implement planning permission 04/01321/EXTN
04/01321/FUL	Permitted 2004	Demolition of buildings, erection of buildings for industrial, storage or business use
04/00794/FUL	Refused 2004	Replacement industrial and storage units
03/00495/OUT	Refused 2003	Permanent equestrian dwelling
02/00966/OUT	Refused 2002	Equestrian dwelling
02/00224/OUT	Refused 2002	Proposed dwelling
01/00680/FUL	Refused 2001	Engineering works and car park
00/00430/PLD	Permitted 2000	Certificate of lawfulness for a proposed use as Sunday car boot sales for no more than 14 days in one calendar year
99/00568/FUL	Permitted 1999	Erection of stable block
98/00633/FUL	Permitted 1998	Renewal of permission for use of land for the keeping of horses and retention of ménage area
97/00282/COU	Permitted 1997	Change of use to keeping of horses and formation of ménage area
96/00537/ELD	Permitted 1996	Application for a certificate of lawfulness for an existing use for business/storage purposes
96/00272/ELD	Refused 1996	Application for a certificate of lawfulness for an existing use for business/storage purposes
95/00465/CPO	Unconfirmed	Modification of condition 5 of permission NNR3969
93/00664/CPO	Permitted 1993	Continuation of underground coal mining and development of two new adits

### **Views of Consultees**

**Keele Parish Council** objects to the application and raises concerns and makes comment as follows:

- They are committed to maintain the integrity of the Green Belt and believe that if this application is allowed it will have implications not only for the parish of Keele but for other Green Belt areas.
- The safest and best policy is to let the tip burn out.
- Recent ministerial statements indicates that failure to meet housing supply demands as no justification for building in the Green Belt and the Borough's own report makes clear it has already met its rural housing target.
- The proposed open space, given the foul state of the ground and the absence of a financial bond, could not be accepted by any public or charitable organisation.
- The Highway Authority do not address the width of footpaths along the whole stretch of the road; the narrow section of Pepper Street opposite Quarry Bank which is not wide enough for 2 large vehicles to pass;
- Public land has been added to the application site which would restrict sight lines along Pepper Street and remove an existing off road parking area thus increasing on road parking near to the dangerous junction of Quarry Bank; and lack of visibility at the junction of Quarry Bank road and Pepper Street.
- Questions the timing of the publication of some of the submitted information and raises concerns that the submission of new material makes it very difficult for residents and their representatives to evaluate and comment upon the application.

- Whilst the Desk Top Study has been resubmitted it does not indicate that further ground-work investigations have been carried out, nor addressed the issue of the foul ground on the former marl hole site.
- The applicant remain silent on the size of the bond to cover liability in the event of work on remediating the burning tip being permitted, nor do they address who would pick up the bill in the event of subsequent gas migration.
- Who will pick up the Highway Authority and Education Authority bill?
- The proposal does not address Network Rails concerns.
- Access to the public rights of way and clarification of the management of transport of various materials pertaining to the fire and contaminated land should be addressed in the submission.

**Silverdale Parish Council** advise that the majority of the Councillors present at the meeting that considered the application were in favour of the application proceeding although some Councillors were against the application proceeding.

The **Environmental Health Division** initially objected to the application, but upon consideration of additional information that has been submitted they have removed their objection.

They advise that following their initial response a site visit was undertaken with a representative from Public Health England. It was evident that the tip is still actively burning as there was smoke and an acrid smell. The smoke appeared to be coming predominantly from fissures within the surface on the top of the tip face, with the Hollywood Lane flank of the tip appearing to have burnt out some time ago, as evidenced by the amount of vegetation which has colonised a significant proportion of this area. There appeared to be evidence that persons had recently accessed the tip via Hollywood Lane, and previous inspections of the site have established that it is possible to access the tip from adjoining land. The ease of access onto the site and the surface instability of the tip poses a significant risk to persons accessing the site.

The latest development proposals therefore offer a means of effectively dealing with the issues posed by this site once and for all.

Further advice has been sought from Public Health England concerning the public health implications of the spoil heap remediation proposals detailed in the outline permission. They remain concerned about potential adverse impacts on air quality and health from fumes, gases and particulates along with the potential for nuisance odours still remain. However it is now considered that it should be possible to effectively control and monitor such issues in order to safeguard public health and residential amenity throughout the remediation phase.

Given the scale of the financial commitment and time and effort involved in remediating the spoil heap, it is also considered necessary to ensure that an appropriate financial guarantee is arranged to secure the remediation of the spoil heap, should works cease part way through.

Conditions relating to the following are recommended:

- Prior approval of the full and precise details of the methodology for the remediation of the burning spoil heap, and that works are to be carried out in accordance with the approved details.
- Prior approval of full and precise details of the steps to be taken to protect public health and the amenity of residents and users of the woodland before any engineering works take place, and that works to be carried out in full accordance with the approved details.
- The residential development shall not become occupied until such time as it has been demonstrated that the fire has been extinguished and is unlikely to reignite.
- Contaminated land conditions
- Japanese Knotweed
- Construction Management Plan and restriction on the hours of construction.
- No impact piling on any part of the site.
- No external lighting without prior approval.

The **Highway Authority** makes the following comment:

- The applicant is recommending that the development is supported by a Travel Plan which encourages the use of alternative modes of transport to the private car. This is welcomed, however it is dependent on one of the residents volunteering and continuing to carry out the role of a Travel Plan Co-ordinator and continuing to do so. This causes concerns with regard to the long term implementation and function of such a plan.
- As indicated in the proposed Travel Plan it is recommended that each of the properties within the site is provided with a Residents Travel Plan Welcome Pack upon its first occupation.
- The access junction off Pepper Street will replace two existing substandard accesses. It is recommended that the width of the access is increased to a minimum of 5.5m in order to improve the free flow of two-way traffic at this location.
- A new 2m wide footway is to be provided over the Pepper Street frontage of the site in order to improve pedestrian access to and from the development. This will link up to an existing footway to the south-western end of the site which will also improve pedestrian facilities for existing residents in the area. It will also provide a link to the existing bus stops on either side of Pepper Street which unfortunately are not presently operational. Given the increase in patronage that the proposal represents hopefully these existing bus stops may well be brought back into use.
- The submission indicates that some of the new properties will front onto Hollywood Lane, which is a byway open to all traffic (BOAT) and as such is not constructed to adoptable highway standards. It is recommended that no vehicular access is taken from Hollywood Lane due to its poor surfacing and restricted visibility out onto Pepper Street. In addition no direct pedestrian access to any of the properties should be allowed as this is likely to result in residents vehicles being parked within the Lane.
- The indicated pedestrian/cycle link will be provided from the site onto Hollywood Lane and given its byway status this is acceptable and should improve sustainability.
- The results of the analysis within the submitted Transport Assessment demonstrate that the junctions of Pepper Street/A525 Station Road and of Pepper Street/Scot Hay Road/Sutton Avenue/High Street, a mini roundabout, will continue to operate well.

An NTADS contribution of £71,878 is required as it is estimated that a net increase in trip generations of 39 arrivals and 13 departures in the PM peak hour will be generated by the development. This should be secured by a S106 obligation, and in addition a Travel Plan and monitoring fee is required.

The following conditions are recommended:

- The development to be carried out in accordance with the approved plan SCP/12301/F01 Rev A.
- Notwithstanding the details shown on the approved plans no development, other than demolition, shall be commenced until revised access details indicating a minimum width of 5.5m for the first 10m from the carriageway edge should be submitted and approved and the access completed prior to first occupation and retained as such for the lifetime of the development.
- Prior approval of a Highways Construction Method Statement details the site compound with associated temporary buildings; parking of vehicles for site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; and wheel wash facilities.
- Prior to first occupation all private parking and vehicle access areas shall be hard surfaced in a porous material and drained in accordance with details that have been approved.

The **Environment Agency** initially objected to the application but following receipt of additional information they now comment that it has no objections subject to the following conditions:

- Development shall not be commenced until such time as a scheme to limit the surface water run-off has been agreed.
- Development shall not be commenced until a scheme to manage the risk of flooding from overland flow of surface water on the proposed development has been agreed.

- Contaminated land conditions.
- Piling or any other foundation designs using penetrative methods shall not be permitted unless it can be demonstrated that there is no resultant unacceptable risk to groundwater.
- If during development, contamination not previously identified is found to be present at the site development to cease until a remediation strategy has been agreed.

The **Coal Authority** (CA) advise that the proposals for excavating into the tip and removing material to an adjacent site for spreading, quenching and cooling, before returning it and re-compacting is the only way to effectively deal with a burning tip. The CA recommends that the LPA impose a planning condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the mine entries and/or areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

In addition, an appropriate planning condition will need to be imposed to ensure that the burning colliery spoil tip is safely extinguished prior to commencement of development. This would involve the submission of a detailed methodology of the works to be undertaken and then the submission of a validation report following completion of the works.

The Coal Authority considers that the content and conclusions of the Desk Study Report and Ground Investigation Reports are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has **no objection** to the proposed development **subject to the imposition of the above conditions**.

**Natural England** indicate that they have not assessed the proposal for impacts on protected species and refer to standing advice that they have published and which is a material consideration in the determination of applications. They advise that if the site is on or adjacent to a local site the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application. The application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird boxes. Consideration should be given to securing measures to enhance the biodiversity of the site from the applicant. They advise that the proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by the Authority's landscape character assessment where available, and the policies protecting landscape character.

**Network Rail** initially objected to the proposal, however as land owned by Network Rail has been removed from the proposal they have now withdrawn their objection.

The **Education Authority** indicates that this development falls within the catchments of Madeley High School and St John's CE (VC) Primary School. They advise that St John's Primary School is full and is expected to remain so for the foreseeable future. Madeley High School is projected to have insufficient places available to accommodate all of the likely demand from pupils generated by the development. They therefore request an education contribution for 21 primary school places (21 x £11,031 = £231,651) and 9 secondary school places (9 x £16,622 = £149,598). This gives a total request of £381,249.

The **Landscape Development Section** (LDS) has concerns about the impact upon Haying wood and the loss of hedgerows, but do not object to this development subject to the approval of detailed development proposals that are based upon the information submitted in the application.

The LDS further comments that the number and final positions of properties within the TPO'd section of woodland (i.e. low density properties) is not defined in this outline application, but is crucial to the success of the developer's intention to retain protected woodland in this area. A layout that is less favourable than is shown on the submitted draft master plan would not be supported.



The following conditions are recommended:

- A detailed arboricultural survey is undertaken and used to inform a landscape led final master plan. The information submitted should show the exact alignment of dwellings within areas of woodland using principles demonstrated in the draft master plan which are retention of woodland buffer around the ponds; retention of more important specimens where possible; retention of woodland buffer between the low and high density housing; and retention of a woodland buffer between the site and Hollywood Lane.
- Submission of existing and finished levels.
- Retained trees and root protection areas shown on a proposed layout plan/
- Arboricultural Impact Assessment in accordance with BS5837:2012
- Dimensioned tree protection plans in accordance with BS5837:2012
- Schedule of works to retained trees
- Arboricultural method statement in accordance with BS5837:2012
- Full hard and soft landscaping proposals based upon principles identified in the Landscape and Visual Impact Assessment
- Full landscape maintenance schedules.

In addition a contribution for off site public open space should be secured at a rate of £2,943 per dwelling to be used at the Underwood Road play area and/or Ilkley Place. Any new playground and open space provision within the development should be maintained through an appropriate management agreement.

The County Council **Rural County (Environmental Advice) Team** comment as follows:

*Historic Environment* – A review of the site and the information contained in the Historic Environment Record suggests that there is low potential for the presence of below ground archaeological remains on the site. However the existing buildings may be associated with an historic tile manufactory and may retain valuable evidence. Recording should be made prior to any dismantling of any building and this should be secured by condition.

*Historic Landscape Character* – In order to reinforce the historic landscape character of the field pattern it is recommended that the historic field boundaries should be retained.

*Ecology* – incomplete information appears to be available. Measures identified in reports do not appear to have been incorporated into proposals. Whilst in the case of outline consent full details may not be required, outline mitigation measures should be proposed and included on plans.

*Rights of Way* – No rights of way are recorded in the immediate vicinity of the proposals and the County Council has not received any application to add to or modify the Definitive Maps.

The **County Mineral and Waste Authority** has no objection to the proposal.

The **Staffordshire Fire and Rescue Service** (SFRS) do not object to the proposal to build houses on the site, however they stress that the remedial works to address the underground fire as outlined in the proposal would be of high risk to the contractors carrying out the work. In addition they strongly recommend the provision of a sprinkler system to a relevant standard in the dwellings. The SFRS was consulted again following submission of additional information, and have confirmed that in their opinion remains that it would be a difficult process to remove the burning items and that it would require an expert on this matter to manage it.

The **Police Architectural Liaison Officer** (PALO) advises that the aspirations to provide good quality housing with a strong hierarchy of streets and space featuring blocks onto public spaces helping to create a sense of natural surveillance and security is welcomed. However the open nature of the surrounding area adjoining the site and the fact that it will sit on the edge of the greater urban locality has less natural social policing. Whilst this is not a disproportionately high crime area, it could be considered that all units should benefit from minimum standards for security in order to serve the occupants over future years. The addition of one hundred residential units is capable of changing the crime profile of the area by virtue of creating more targets of opportunity. The PALO advises that the development would benefit from gardens that are enclosed by appropriate fencing, doors and windows installed to minimum standards, and every dwelling should have at least a build in fused

spur enabling the householder to retro fit a burglar alarm or alternatively burglar alarms fitted as standard. Vehicle parking should be in-curtilage where possible.

The **Woodlands Trust** advises that the proposed development is adjacent to Holly Wood an area of Ancient Semi Natural woodland. The submitted land and visual assessment states that the woodland will be protected during the works to ensure there are no tree losses or damage to trees within it. An offset of 15m from the edge of the ancient woodland boundary will be required in accordance with Natural England best practice as indicated on the landscape strategy. As stated within the submission all construction activities and vehicle movements should be prevented from damaging the woodland through use of a construction exclusion zone and/or ground protection. The use of native, broad-leaved species for new woodland planting and soft landscaping is welcomed but they remain concerned about the loss of woodland within Haying Wood and the additional hedgerow loss within the site boundaries. While new planting is to occur, the loss of this woodland and the construction of 100 dwellings between Holly Wood and Haying Wood would have a negative impact on habitat connectivity for woodland wildlife, while increasing the fragmentation of the remaining woodlands. It is vitally important that all mitigation proposals enhance the wider landscape, making it function better for both wildlife and people. If the council are mindful to grant planning permission they recommend that the 15m buffer is planted with native woodland to provide a graduated edge to the ancient woodland and that it should be a condition that the buffer is maintained for a minimum of 10 years with any losses replaced. They also recommend that the area adjacent to the woodland is retained as greenspace to help provide an additional buffer for the ancient woodland from the intensified use of the eastern section of the site.

The **Urban Vision Design Review Panel** commented on the proposed development prior to the submission of the application. The main points from their detailed comments are set out below:

- Levels drawings should be provided to explain the process of how the burning material will be dealt with and how this will affect the final levels across the site.
- Re-working of the landscape could potentially provide an improved local landscape, but a statement is needed to explain how the open space created will be used, managed and accessed after remediation.
- No historical evidence has been provided to show the position and scale of the original industrial buildings on site to demonstrate that the proposed development will have no greater impact on the green belt than the existing. This information is essential because it would provide the rationale for the positioning and the extent of any new development that is allowed on the site. This analysis should also include an assessment of the surviving buildings on the site to determine their heritage significance or other merits.
- More explanation should be provided to illustrate the site layout and clarify the positioning of the buildings and their orientation. The diagrammatic layout provided does not enable a good enough assessment to be made of the urban design qualities of the proposal. The concept master plan indicates blocks with depths that appear to be unrealistically large and there may be scope for reducing the area of development and increasing the density.
- The decision to omit development originally proposed at the end of the site nearest to the settlement at Quarry Bank Road would mean that the new development would be isolated and would not satisfy the policy requirement that new dwellings in the green belt 'should normally be site within, and designed to fit in with, an existing group of dwellings or farm buildings'. They thought that a better relationship with Quarry Bank Road settlement should be created including pedestrian links to the new public open space.

The conclusions and recommendations of Urban Vision are set out in full below.

"The Panel thought that although this proposal involves new development in the green belt, which is normally regarded as inappropriate, there are special circumstances which may justify an exception being made in this case. The proposal has the potential to improve the quality of the local environment significantly, however, on the basis of the information provided so far it would be difficult to make a strong enough case for such an exception.

In order to make a convincing case the Panel thought that further information is required on the parameters and guidelines for the proposed development which determine inter alia its scale, extent, layout and architecture. Many of the Panel's recommendations could be met in producing the Design and Access Statement which will be required to support the planning application.

### *Recommended Actions*

1. A levels drawing should be produced to explain how the material from the burning spoil tip would be re-distributed following its remediation and how this material would be used to create the proposed final levels across the site.
2. A statement should be provided explaining how the proposed public open space would be used, managed and accessed following remediation.
3. An assessment should be made of the surviving industrial buildings on the site to determine their original purpose, current use, scale, condition and their heritage significance. Such information should be used to inform the extent, location and layout of the proposed new development on the site.”

**Staffordshire Wildlife Trust** advises that they are not able to respond to the consultation.

**Severn Trent Water** has no objection subject to a condition requiring the submission and approval of drainage plans for the disposal of surface water and foul sewage.

The views of the **Staffordshire Badger Conservancy Group, Housing Strategy, United Utilities, the Waste Management Section and Economic Regeneration** have been sought, however as they have not responded by the due date it is assumed that they have no comments to make on the proposal.

### **Representations**

79 letters of objection/concern (including a letter from Cllr Rout and three letters from Cllr Kearon) and two petitions (including 44 and 158 signatures) have been received raising the following matters;

- The fire is no longer causing problems for local residents.
- The submission contradicts the findings of the 2008 White Young Green report which warns against opening up the area or allowing air and water to enter because this could create fire entering other coal seams as the tip overlies two thick coal seams. The report recommended that the site is secured and the fire allowed to burn out.
- No consideration is given to the nature of the tip material which is to be spread on the adjacent field, which is proposed to be public open space, and the potential contaminants that may be produced in the quenching process, and the management of resulting pollution.
- By working on the fire it will pollute the atmosphere causing health problems.
- Young children and adults would be exposed to dangerous wind-born dust from the site which is known to include cyanide, arsenic and asbestos.
- The Ground Investigation reports are inadequate. The area of public open space is contaminated containing hazardous waste related to former industrial use and this is not covered in the Ground Investigation reports. The proposal makes no attempt to assess the nature of the contaminants, other than methane gas, that may be escaping from this landfill, nor to model future contaminant migration from this site. It is unlikely that any public or private body would want to adopt it. The Ground investigation reports are based on inadequate geological records. The Ground Investigation reports do not adequately identify the position of a geological fault in which a risk of gas migration may exist and it fails to recognise or evaluate the infill of the former clay pit.
- A substantial bond (£40-80 million) should be secured, to include a 5 mile radius from the site and cover potentially carcinogenic substances and fire entering other coal seams for 50 years.
- The development would introduce a large number of new residents to the dangers of ponds and water voids which would remain close to the development
- The footpaths in Pepper Street is too narrow, only half the width recommended in Manual for Streets, any extra traffic will increase the risk to pedestrians.
- Traffic will cut through Quarry Bank to Keele as the gates are constantly left open.
- The development would greatly increase traffic around St Luke's Primary School as well as through unsuitable roads through Silverdale Village.

- In the short-term the traffic associated with the remediation of the tip and the building of the development will impact on Pepper Street which has a pinch point at its junction with Quarry Bank.
- Local schools and doctors surgeries are already full to capacity.
- The development is not in keeping with its rural setting, and it is only suitable for an urban location.
- The site has been allowed to deteriorate and is an eyesore.
- There have been several breaches of planning control on the land.
- The development would cause devastation to the abundant wildlife around Pepper Street.
- The development will result in the loss of Green Belt land, and once it is gone it is gone forever.
- The Green Belt in this area is appreciated by an increasing number of walkers.
- A lack of a five year housing land supply does not justify development in the Green Belt.
- The gift of public open space on heavily polluted land does not justify development in the Green Belt.
- The site is in an unsustainable location, 2km from Keele Village centre by car.
- The sewerage station at Silverdale Road cannot accommodate the development.
- The application is before any logical, unified plan has been prepared identifying where development should take place. Until such a time the Green Belt should not be developed except for very small development.
- The County Council have requested an education contribution, but as the developer has indicated that there would be no contribution the full costs will have to be borne by the County Council.
- No affordable housing has been proposed on or off site. The financial viability report will need to be thoroughly and independently assessed to ensure the viability arguments are justified and a claw back mechanism secured if any increase value of the development occurs.
- Existing jobs would be lost as a result of the development, and none are proposed.
- No on site equipped children's play area is proposed.
- There are a number of discrepancies on the forms.
- If planning permission is granted it would set a precedent for other similar development on Green Belt and Greenfield land.
- Unmet housing need is unlikely to outweigh harm to the Green Belt and other harm to constitute very special circumstances justifying inappropriate development.
- The ability of the applicant to successfully put out the fire is questioned.
- The applicant has not explained adequately what will happen to the surface water runoff that would be created as a result of dousing the burning materials.
- The underground fire is on private land and therefore no tax/rate payer should have to contribute towards remediation.
- The submitted additional information does not overcome concerns that have been expressed.
- The site as amended includes land in the ownership of the Highway Authority and it is necessary to serve notice upon the land owner.
- The site is in an isolated location and the development will increase the risk of crime and disorder.
- To improve the prospects of the occupiers interacting with the existing community at Keele an off-site play area should be provided in Keele at the expense of the applicant.
- The Ground investigation reports cover only those parts of the site on which it is proposed to build.
- It is questioned why it has been deemed unnecessary for an Environmental Impact Assessment to be made of this development.
- Since the application was submitted there have been several attempts to start fires on the area of the underground fire.

Five letters of support have been received indicating the following:

- Other contaminated sites have been successfully developed
- The housing development is ideally situated and will bring much needed trade and business to the community.

- The development will regenerate the eyesore that is the site and extinguish and remove the dangerous burning tip to everyone's benefit.
- If the tip is not treated it will continue to give off obnoxious and potentially noxious fumes and will be a continued risk to those who venture onto the site.
- There is a risk that the fire could extend to Haying Wood and extinguishing the fire will remove that risk.
- The traffic report shows that Pepper Street is perfectly adequate to cope with the additional traffic from the development.
- There would also be the prospect of bringing a bus service back to Pepper Street, a benefit for the area.
- The type of housing proposed would support the development of Keele Science and Business Park and University.
- Whilst smell and dust will increase as the spoil heap is removed, willing to accept a short term inconvenience for a long term gain to the area.
- The proposed public space may have contamination but that exists now so with monitoring there would be no increase in danger to the public.
- Pepper Street is inadequate for the traffic but can be improved.
- The development would be a link between Silverdale and Keele.
- We need more houses nationally.

### **Applicant's/agent's submission**

The applications are accompanied by the following documents:

- Planning Statement
- Design and Access Statements
- Landscape and Visual Impact Assessment
- Site Investigation Reports
- Transport Assessment
- Travel Plan
- Agricultural Land Quality Assessment
- Services and Utility Review
- Ecological Surveys and Impact Assessment
- Viability Assessment
- Statement of Community Involvement
- Addendum Report on Disused Burning Tip

The documents are available for inspection at the Guildhall and at [www.newcastle-staffs.gov.uk/planning/1300970OUT](http://www.newcastle-staffs.gov.uk/planning/1300970OUT)

### **KEY ISSUES**

The site lies within the North Staffordshire Green Belt and an Area of Landscape Restoration as designated on the Local Development Framework Proposals Map.

The development involves the loss of employment generating uses however it is not considered that the site is of good quality or that its loss would unacceptably limit the range and quality of sites and premises available for employment. In the circumstances and given the policy context, it is considered that the main issues for consideration in the determination of this element of the application are:

- Is the proposal appropriate or inappropriate development in Green Belt terms?
- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Does the proposed development have any significant adverse impact on the trees on the site?
- Would the proposed development have a significant adverse impact on the character and appearance of the area or the wider landscape?

- Would the proposed development have any impact upon highway safety, does the development promote sustainable travel choices and how does this need to be secured?
- Is affordable housing provision required and if so how should it be delivered?
- What impact would the development have upon the local school in terms of additional pupil numbers and how could this matter be addressed?
- Will appropriate provision of open space be made?
- Would there be any significant impact upon any protected species?
- What are the health and safety implications of the proposed development?
- Are there the required Very Special Circumstances to warrant setting aside Green Belt policies?
- Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

**Is the proposal ‘appropriate’ or ‘inappropriate’ development in Green Belt terms?**

The site is located within the Green Belt. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. According to the NPPF the construction of new buildings within the Green Belt is inappropriate unless it is for one of a number of exceptions including the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Whilst the precise volume of buildings that would be constructed as part of the proposed development is not known at this time, it is clear that it will significantly exceed the volume of buildings on the site that are to be demolished. It is therefore considered that the development will have a greater impact on the openness of the Green Belt in the local context although not in the wider landscape given the topography of the area.

With respect to the second test that the NPPF requires is applied (the comparison of the impact on the purpose of including the land within the Green Belt) the NPPF states that the Green Belt serves five purposes:-

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

It is considered that as the development would not safeguard the countryside from encroachment, as the proposed development would extend beyond the area currently developed, and as such the proposed development would also impact upon the purposes of including land within the Green Belt.

It is therefore concluded that the proposed development represents inappropriate development in Green Belt terms and therefore there is a need for the applicant to demonstrate very special circumstances.

**Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?**

Policies concerning development within the countryside apply with equal force within the Green Belt. The site lies within the Rural Area of the Borough, outside the Major Urban Area of the North Staffordshire conurbation.

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. This site is not one of the targeted areas. 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.

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.

In terms of open market housing, the development plan indicates that unless there are overriding reasons, residential development in villages other than the Rural Service Centres is to be resisted. The adopted strategy is to allow only enough growth to support the provision of essential services in the Rural Service Centres. This site is not one of the identified Rural Service Centres or within a village envelope (as referred to in NLP Policy H1), it lies beyond the Major Urban Area of North Staffordshire, and the proposed dwellings would not serve an identified local housing requirement.

The LPA, by reason of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years worth of housing against its policy requirements (in our case 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 as the latest housing land supply figure is 3.12 years.

The principle of residential development on the site must therefore 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."*

Whilst the proposal is contrary to Development Plan policies the application could not be refused on that basis due to relevant policies referred to above being considered out-of-date as a consequence of being unable to demonstrate a five year supply of deliverable housing sites.

As relevant policies are out-of-date it is necessary to address the second bullet point of paragraph 14 of the NPPF:

- *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.*

A footnote within the NPPF indicates that reference to specific policies includes policies relating to the Green Belt. As indicated above the development is considered to be inappropriate in the Green Belt and as such specific policies of the NPPF indicate that the development should be restricted.

In conclusion, whilst the proposal cannot be said to be contrary to Development Plan policies relating to the location of new residential development it is contrary to specific Green Belt policies of the NPPF and as such there is not a presumption in favour of this development.

### **Does the proposed development have any significant adverse impact on the trees on the site?**

There are a significant number of mature trees on the site, many of which are the subject of a Tree Preservation Order.

NLP Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. Where, exceptionally, permission can be given and trees are to be lost through development,

replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

Details of the layout of the development have not been submitted for approval at this stage. The submission is, however, supported by a number of documents and plans which indicate that a lower density of development would be carried out in the TPO'd sections of woodland. Provided that this is secured through conditions of the permission which require adherence to the principles of the draft master plan and submission of further supporting information (such as an Arboricultural Impact Assessment; a layout plan that shows the retained trees and their root protection areas; and tree protection measures) it is considered that the development could be undertaken without an unacceptable and adverse impact on the trees.

**Would the proposed development have a significant adverse impact on the character and appearance of the area or the wider landscape?**

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.

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) in 10.1 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. The elevations of new buildings must be well composed, well proportioned and well detailed and new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The site is within an Area of Landscape Restoration and NLP Policy N21 states that the Council will support, subject to other plan policies, proposals that will help to restore the character and improve the quality of the landscape. Within these areas it will be necessary to demonstrate that development will not further erode the character and quality of the landscape.

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.

Members should note that applications 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.



The indicative layout included on the submitted master plan indicates that the residential development will largely take place on the 'brownfield' parts of the site where the existing industrial buildings/activities take place although the proposed development would extend further into Haying Wood than current development does. The area of the burning colliery spoil tip is shown to be planted with broad-leaved native woodland planting which will connect to the existing woodland at Haying Wood. The former landfill site within the overall site is shown to be public open space with additional woodland planting, hedgerow reinstatement and the creation of a meadow/flower glade.

The master plan shows a series of cul-de-sac and internal roads radiating from a 'central' landscaped square. All the properties would be accessed from the internal road layout with no direct access onto Pepper Street or Hollywood Lane. Two existing ponds, within Haying Wood, are shown to be retained with a landscaped area around them.

There is no doubt that the introduction of 100 dwellings in this rural location will change the character of the immediate environs of the site. The proposed development, however, offers an opportunity to improve the quality of the landscape through the removal of the existing buildings and uses that have an adverse visual impact, and through the remediation of the burning spoil tip. The submission is supported by a Landscape and Visual Impact Assessment which has been used to develop a landscape led master plan that seeks to increase woodland cover on the site and reinstate field hedgerows and hedgerow trees.

Whilst the master plan has been amended from that considered by Urban Vision the concern expressed by them that no development at the end of the site nearest to the settlement at Quarry Bank Road would not satisfy the policy requirement that new dwellings in the green belt 'should normally be site within, and designed to fit in with, an existing group of dwellings or farm buildings' has not been addressed. The choice to site the dwellings away from the existing dwellings Pepper Street/Quarry Bank Road has resulted in the incorporation of a landscaped buffer along the site frontage on either side of the access road, which will soften the external appearance of the development and will enhance the landscape setting that the applicant is seeking to create for the development.

Subject to careful consideration of the external appearance of the dwellings, to ensure that they reflect their rural setting; layout to ensure that as many trees are retained as possible and that the density of the development is lower in the location of the protected woodland; and landscaping to secure hedgerow reinstatement and woodland reinforcement/enhancement it is considered that the development would not have an unacceptable visual impact on the area.

The main principles of the proposed design and layout of the site are outlined in the Design and Access Statement. The content of that document is considered appropriate as a basis for the reserved matters submission and therefore, a condition would be appropriate that requires any subsequent reserved matters applications to be in accordance with the principles of the Design and Access Statement. Overall it is considered that the development accords with Development Plan policies which seek to protect, restore and enhance the landscape character.

**Would the proposed development have any adverse impact upon highway safety, does the development promote sustainable transport choices and if so how does this need to be secured?**

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 proposed single vehicular access would be off Pepper Street and would replace two existing accesses off Pepper Street which the Highway Authority (HA) considers to be substandard. The Highway Authority consider that the proposed access, which is in the form of a simple priority junction and minimum visibility splays of 2.4m by 90m, is acceptable subject to its width being increase to 5.5m for the first 10m from the edge of the carriageway to improve the free flow of two-way traffic. This could be secured by condition. In other respects the HA has raised no objection to the proposal and does not support the concerns that are raised within representations and the views of Keele

Parish Council that Pepper Street does not have the capacity to safely accommodate the development with particular reference made to a 'pinch point' opposite Quarry Bank.

The HA has expressed concerns regarding the indication in the draft master plan that new properties will front onto Hollywood Lane. The indication is that Hollywood Lane is a byway open to all traffic (BOAT) and as such is not constructed to adoptable highway standards. The HA advise that if properties front onto Hollywood Lane they should have not vehicular access from it. In addition they should not gain any direct pedestrian access to individual properties as that would encourage parking on the lane.

A further master plan has been submitted, which the HA have not commented upon. This includes a more detailed indicative layout which does not suggest that any vehicular or pedestrian access would be provided onto Hollywood Lane thereby overcoming the HA's concerns. Should permission be issued a condition could be imposed to ensure that any reserved matters adhere to the principles as set out in the master plan and other supporting documents in this regard so as to avoid such a situation arising.

In terms of the sustainability of the site in transport terms, it is located less than 2km from Silverdale which has a number of services and facilities which could serve any new development. In addition it is approximately 2km from Keele with its, limited, services and facilities. Whilst this proposal is for outline planning permission and as such the detail of the final development is to be subsequently approved this submission indicates potential pedestrian/cycle links to the surrounding area. The links are shown to the existing bus stops on either side of Pepper Street which, unfortunately, are not in use at this time.

A travel plan has accompanied the application, as an appendix to the submitted Transport Assessment. Whilst there are some concerns raised by the Highway Authority regarding the Travel Plan Co-ordinator, this is otherwise welcomed. The travel plan would promote sustainability of the development including promoting the existing and proposed public transport links and the provision of a "welcome pack" to the new householders on the site which promotes sustainable modes of transports open to new residents.

It is considered the site, whilst in the rural area, is in a reasonably sustainable location within reach of surrounding services and facilities and the proposal would enhance this sustainability by providing improved pedestrian and cycleway links. Conditions would however need to be appropriately worded to ensure that this critical permeability is achieved.

The Highway Authority has also recommended that a Newcastle (urban) Transport and Development Strategy (NTADS) contribution of £71,878 should be sought. NTADS, however, finished in early April this year which was after the Highway Authority comments were received and as such it would not be reasonable to secure such a contribution at this time. The Highway Authority has been informed of this and has not sought any other contribution for off site highway works in the absence of a NTADS contribution.

### **Is affordable housing provision required and if so how should it be delivered?**

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.

On this site it is considered that 25% of the residential units within the development (25 units) should be affordable with 15 of the units being social rented properties and a further 10 units being shared ownership, all of which would have to be transferred to a Registered Social Landlord.

Paragraph 50 of the NPPF states that where they have identified that affordable housing is needed, local planning authorities should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. The Council's Developer Contributions SPD also indicates that affordable housing should be provided on the application site so

that it contributes towards creating a mix of housing, but where it can be robustly justified, off site provision or the obtaining of a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted. The SPD suggests that one of the circumstances where offsite provision may be appropriate is where the Council considers that “the provision of completed units elsewhere would enable it to apply the contribution more effectively to meet the Borough’s housing need”.

A large development such as this should be able to accommodate some on-site affordable units which should be integrated into the scheme to contribute to the provision of mixed communities, particularly bearing in mind the above significance of the scheme to the rural area.

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

Staffordshire County Council as the Education Authority, and the body charged with ensuring sufficient school places, advises the development site falls within the catchment of Madeley High School and St John’s CE (VC) Primary School. They advise a development of the scale proposed could generate an additional 21 Primary School aged pupils and 9 High School aged pupils.

They have requested an education contribution for a development of £381,249 based on the primary and high school places advising that the primary school is full and expected to remain so for the foreseeable future and the high school is projected to have insufficient places available to accommodate all the likely demand from pupils generated by the development.

The comments are made based on the development providing 100 dwellings and if that number was to be different or the dwelling breakdown was to alter, a revised calculation will be necessary.

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.

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.

**Will appropriate open space provision be made?**

The saved NLP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured.

The indicative layout shown on the master plan, whilst showing a large area of publicly accessible open spaces and smaller, informal areas within the housing layout, does not include any formal equipped play areas to meet the needs of the development and as such the Landscape Development Section has requested a financial contribution for capital development/improvement and ongoing maintenance to be spent off site at Underwood Road and Ilkley Place. They advise that any public open space or playground provided within the development is maintained through an appropriate management agreement.

Again the suggested above contribution must pass the statutory test set out in the CIL regulations, as set out in the section above. The calculations have a clear and reasonable rationale and it is considered that the CIL tests are met. Accordingly the open space contribution sought is considered reasonable if the developments needs are not met on site. The applicant has, however, during the application process confirmed that they will provide on site play provision within the development. In light of this there is no justification for a financial contribution for improvements to existing play areas

off site. It will be necessary, however, to ensure that the future maintenance of any equipped play area and other open space areas within the development is secured through a S106 obligation.

**Would there be any significant impact upon any protected species?**

The application is supported by a number of surveys regarding protected species. The surveys identify a number of protected species and their habitats across the application site. The reports contain recommendations including relocation (under licence) and creation of alternative habitats and habitats sites.

It is considered that there are no sustainable reasons to resist the proposal due to the adverse impact on the ecology of the site.

**What are the health and safety implications of the proposed development?**

The proposal raises two issues that need to be addressed under this heading, the consequences to public health in undertaking the proposed remediation of the burning spoil heap and issues of contamination of the site and the appropriateness of the proposed uses.

*Remediation of Spoil Heap*

Initially the Environmental Health Division (EHD) objected to the proposal commenting that there were currently no public health concerns relating to leaving the spoil heap in situ apart from the safety of third parties who may gain access onto the site which could be addressed through appropriate boundary treatments. EHD advised that the air quality impact of the burning spoil heap had previously been assessed and it was concluded that it would not cause a breach of the statutory air quality objectives which are designed to protect health. The response received from EHD, which was prepared in consultation with Public Health England (PHE), was that the submission failed to demonstrate that the proposed remediation of the spoil heap and development site would not have an adverse impact on amenity and health of users of the woodland and the surrounding residential areas.

Further comments have now been received from EHD which re-evaluate the health and safety implications of the proposed remediation of the burning spoil heap following a site visit by representatives of EHD and PHE. The further comments indicate that at the site visit it was evident that the tip was still actively burning as there were smoke emissions visible from the tip as well as an acrid odour typically associated with a spoil heap fire, and that both the smoke emissions and the odour became more pronounced following a short period of heavy rainfall that occurred during the visit. In addition there was evidence, when the site visit was undertaken, that persons had recently accessed the tip to recover wood or for other purposes via Hollywood Lane.

EHD indicate that further advice has been sought from PHE concerning the public health implications of the spoil heap remediation proposals and their concerns about the potential adverse impacts on air quality and health from fumes, gases and particulates along with the potential for nuisance odours still remain. Notwithstanding this, EHD now consider that it is possible to effectively control and monitor such issues so that public health and residential amenity are safeguarded throughout the remediation phase. They now consider that the development proposals offer a means of effectively dealing with the issues posed by the site once and for all and as such are now of the opinion that the benefits of addressing the burning tip outweigh the issues arising from such remediation works which they now consider can be appropriately controlled. This position is supported by the Coal Authority.

Conditions are recommended requiring the methodology to be employed to remediate the burning spoil heap and the steps to be taken to protect public health and amenity of residents and the users of the woodland to be agreed before any work commences. In addition EHD recommend that an appropriate financial guarantee (or bond) be secured to ensure the full remediation of the spoil heap following commencement in the event that the developer is unable to complete.

Keele Parish Council has expressed concern, as have objectors to the proposal, that existing underlying coal seams will catch fire as a consequence of undertaking the proposed remediation works. This risk is acknowledged by the Coal Authority but this has not led to them raising an

objection, on the contrary they endorse the strategy adopted. They advise, however, that any excavation works into coal seams and/or mine entries would require a permit from them. Given the views that have been expressed by the Coal Authority it is considered that the risk of the underlying coal seam is low and this could be suitably addressed through the use of conditions.

Overall it is considered that the benefits in respect of health and safety arising from the remediation of the burning spoil tip outweigh the benefits. It should be noted the development itself can be controlled through the imposition of conditions, however such conditions cannot ensure that the remediation works are fully undertaken and completed. This could only be secured through a S106 obligation.

The consequences, in terms of public health, of the remediation work only partially being undertaken is significant. Whilst the precise amount of the bond is not yet known, and must be agreed to ensure that it is fairly and reasonably related in scale to the development, it is considered that such a requirement is necessary to make the development acceptable in planning terms and would be directly related to this development. Such an obligation would accordingly be lawful.

### *Contamination*

The NPPF, at paragraph 120, indicates that to prevent unacceptable risks from pollution and land instability planning decisions should ensure that new development is appropriate for its location. The National Planning Practice Guidance further advises if there is a reason to believe contamination could be an issue, developers should provide proportionate but sufficient site investigation information to determine the existence of otherwise of contamination, its nature or extent, the risks it may pose and to whom/what so that these risks can be assessed and satisfactorily reduce to an acceptable level.

Initially concerns were expressed by EHD about the adequacy of the submitted Desk Study Report regarding contamination. A revised desk study report has now been received, however, and EHD advise that the majority of points raised in their consultation have now been satisfactorily addressed including recognition that ground investigation works must be undertaken in the area of landfill if public access is anticipated.

EHD advise that their comments in relation to the site investigation works undertaken to date remain largely unchanged, but at this stage without clear proposals on the development layout or changes in site levels and accurate assessment of the site investigation works undertaken to date cannot be made. They advise that in the circumstances the full contaminated conditions should be attached to any permission.

The advice received, therefore, is that proportionate but sufficient site investigation information has been submitted at this stage to determine that the residential development proposed can be undertaken. It remains necessary, however to undertake detailed ground investigation works to establish to extent of contamination and the required remediation measures.

### **As it is inappropriate development whether the required very special circumstances exist to justify inappropriate development.**

The National Planning Policy Framework at paragraph 88 advises "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

The applicants' agent has provided a list of reasons why they consider the proposed development as the required very special circumstances:

- Remediation of the burning tip – the submission indicates that the proposed development would ensure the full remediation of the burning tip as the residential development would ultimately fund it although the remediation would be undertaken in full before any residential development occurs. The submission acknowledges the conclusion of the WYG report in 2008 that the only option at that time was to let the fire burn out of its own accord, but

indicated that due to the availability of adjacent land the option of excavating out and quenching the fire was now available.

- Housing supply – the submission highlights that up to 100 dwellings would represent a boost to the local housing land supply. It indicates that the majority of the housing would be erected on brownfield land and the site is a sustainable location and the development represents a logical sustainable site for housing and development which could go some way to protecting other more rural, and less suitable, sites.
- Community open space - The supporting information suggests that an area of 9.32ha will be donated to an organisation such as the Groundwork Trust or the Local Authority to be retained as public open space in perpetuity with an agreement that this land could not be built on in the future. The indication is that the development would result in landscape improvements but would also ensure the perpetual retention of the improved landscape for public enjoyment in years to come. The submission states that the landscape proposals would link to the newly improved public open space to the proposed housing development and to surrounding footpaths thereby delivering positive community benefit.

The case presented is considered below, in light of the earlier observations in this report.

#### *Remediation of burning tip*

It is accepted that the best method of extinguishing a tip fire is to excavate the spoil, allow it to cool in a safe place and then compact it in layers to exclude ingress of air. This requires land and involves considerable cost and for these reasons it is therefore accepted that undertaking an enabling development is necessary if this is to happen. In addition it is accepted that the benefits of extinguishing the fire, from a health and safety perspective, outweigh the public health issues that could occur during the remediation as outlined above.

The question that arises, therefore, is whether the benefits of extinguishing the tip fire outweigh the harm from the proposed development by reason of inappropriateness.

The fire started in 2006 and in the consultants report of 2008 it was anticipated that the fire would have burnt out within 2 to 3 years, however in 2014 there remains evidence that the tip is still burning and it is not known when the fire will burn out. Supporting documentation within the application suggest it could last for many years, possibly two decades.

The issues arising from the tip fire are smoke and odour resulting in health and environmental risks; the loss of vegetation and the impact on visual amenity including the loss of protected trees; and the safety risk to those who access the site.

The health and environmental risks have been addressed above appear to be localised affecting those who walk near to the site, rather than residential properties. Extinguishing the fire will increase the amount of smoke and odour but this will be for a relatively short period and impacts could be limited and controlled through condition.

Any vegetation lost will grow back as is evidenced on part of the tip where the fire started. This will take some time, however, particularly for trees to re-establish and grow to the size that they currently are. As such the visual impact of the tip fire will be for a relatively long period.

Whilst the use of appropriate boundary treatments could deter people accessing the site of the burning tip it does not prevent it. The Council has utilised what powers it has to require the Hollywood Lane boundary to be secured, and access to Hollywood Lane has been limited through the introduction of a gate. This has not, however, prevented public access to the land. The ability to access the site and the surface instability of the tip poses a significant risk to the general public.

The consequences of refusing of permission would be the continuation of the fire and the issues highlighted above and it is considered that these amount to very special circumstances that outweigh the harm arising from the development by reason of inappropriateness.

#### *Housing supply*

Whilst it is acknowledged that the Council cannot demonstrate a 5 year supply of deliverable housing sites it is not accepted that this amounts to a very special circumstance that could justify inappropriate development in the Green Belt.

#### *Community open space*

It is considered that this could be accepted as part of the very special circumstances that justify inappropriate development if the provision of such space meets an identified need and its provision could be guaranteed. There is no evidence that the provision of the public open space would meet an identified need within the locality, however. In addition there is no guarantee that safe and usable open space would be secured as the submission acknowledges that the part of the site where the open space is to be provided is contaminated but states that no allowance for investigation for the landfill has been made, with testing to be targeted to the boundary of the landfill/previously developed area and anticipated faultline only. The applicant is therefore not proposing to undertake any remediation of the landfill site to make it suitable for use as public open space, and it is unlikely that public or other body would take on the site and undertake the necessary remediation work, even if the land is donated to them.

For these reasons this could not be given any weight as a very special circumstance exist that outweigh the harm to the Green Belt by reason of inappropriateness.

#### *Conclusion*

Whilst it is considered the above reasons are valid they are reasons which could easily be argued in respect of other site in the Borough and as such do not provide the very special circumstances that clearly outweigh the harm to the Green Belt and warrant setting aside well established Green Belt planning policies.

#### **Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?**

As indicated above, to comply with policy, certain contributions would be required to make the development acceptable. These are either financial contributions or ones in kind, but they are all capable of being costed, and they would be considered by a developer to be “additional” costs. These are, in no particular order, the provision of affordable housing (an uncalculated but very significant value relative to the other contributions), travel plan monitoring fee, and provision for additional educational capacity. That for the maintenance of the open space on the site can be considered to fall into a different category – this is more for the provision of a service (the adoption of the open space within the development). The financial contributions would total up to £387,449 (or just over £3,874 per unit). This excludes the cost of the affordable housing provision.

A Viability Assessment has been submitted with the application which concludes that a policy compliant development would not be viable. The assessment concludes that the development could not support any financial contribution or affordable housing provision.

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

The Council’s position is that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply. A list of the type of information which an applicant might consider useful to demonstrate why the Council’s requirements are too onerous is provided and it is indicated that negotiations over the level of and nature of contributions will be assessed on a ‘site by site’ basis, having regard to a financial appraisal (which may be informed by independent advice) and that such negotiations will need to take

account of the economics of the development and other national, regional, and local planning objectives that may affect the economic viability of the proposal.

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

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

Your officers have now received a revised draft Report by the District Valuer setting out his appraisal of the development's viability. His conclusion is that the proposed development could support the full 25% provision of affordable housing within the development with some additional money available to meet, in part, the required financial contributions. The view of the District Valuer differs so greatly from the conclusion of the view the applicant on the basis of the District Valuer consideration that the one of the identified abnormal/development costs that the applicant has concluded is overstated. The applicant has, however, submitted further information to justify the costs and it is possible that the final report of the District Valuer will reach a different conclusion.

Your Officer's will report further on this issue but it appears likely that there are sufficient circumstances here, to justify accepting the development with reduced contributions reflecting the level of contribution which the development can support.

#### Background Papers

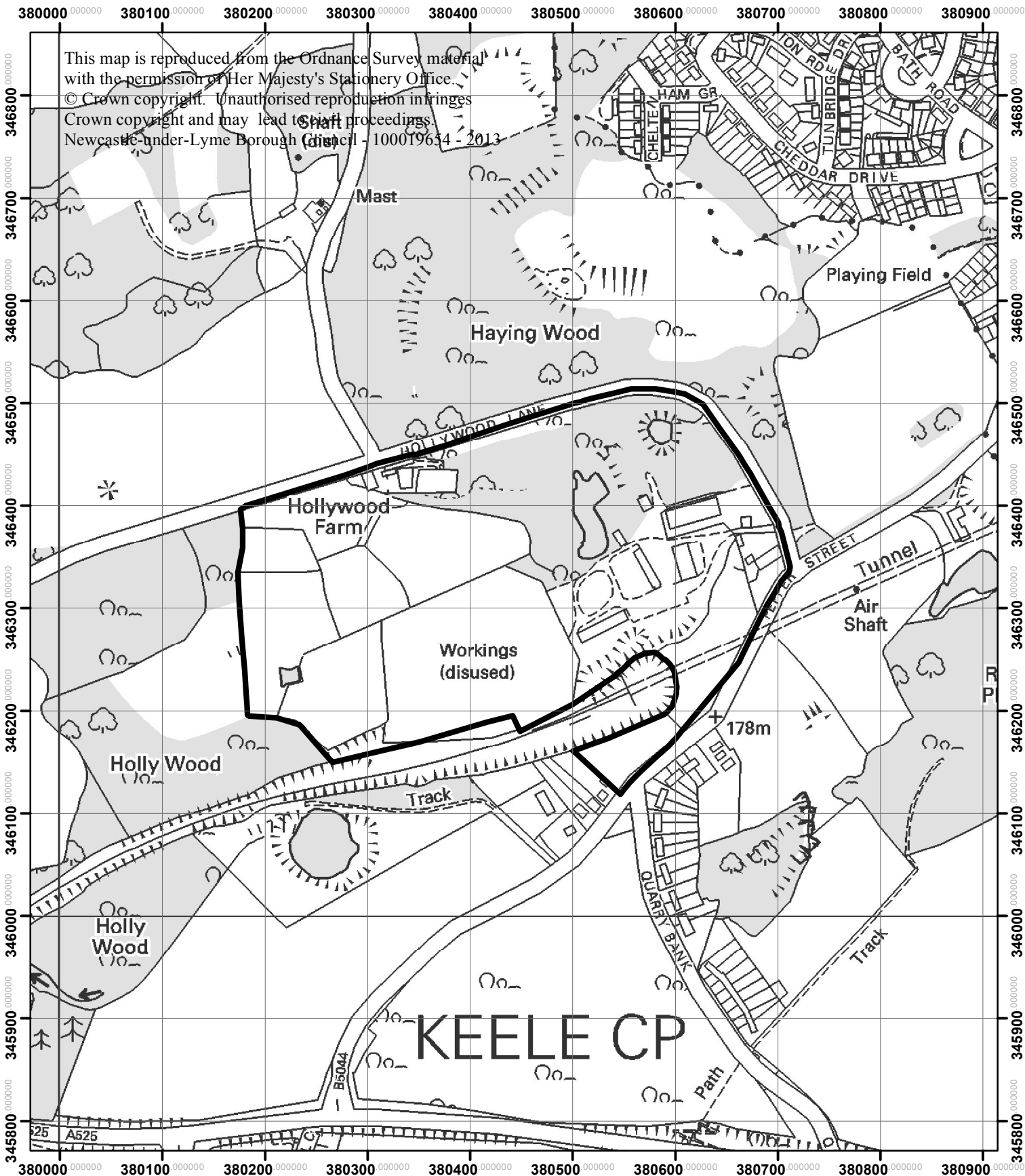
Planning files referred to  
Planning Documents referred to

#### Date report prepared

1<sup>st</sup> July 2014



# Land North of Pepper Street Keele- 13/00970/OUT



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**LINLEY TRADING ESTATE, LINLEY ROAD, TALKE  
REALTY ESTATES LTD**

**14/00362/FUL**

The Application is for the variation or removal of a number of conditions of an outline consent for commercial business uses (Class B1, B2 and B8) and a small/medium sized A1 retail foodstore at Linley Trading Estate, Linley Road, Talke (Ref. 10/00080/OUT).

The following conditions are to be varied:

- Condition 5 relating to a revised right turn facility and access works
- Condition 18 to allow gross retail floorspace up to 1,384 square metres, and
- Condition 20 to require that at least 80% of the net sales floor space is devoted to the retailing of convenience goods

In addition, it is proposed to remove the following conditions:

- Condition 19 which prevents the retail floorspace from being occupied or operated by Tesco, Sainsbury's, Asda or Morrison's
- Condition 21 which requires that a minimum of 2,434 square metres of floorspace for business, industrial or storage or distribution purposes shall have been completed on the site and made available for letting or sale prior to first occupation of the A1 retail foodstore

The site lies within the Kidsgrove Neighbourhood and Urban Area on the Local Development Framework Proposals Map.

**The 13 week period for this application expires on 15<sup>th</sup> August 2014.**

## **RECOMMENDATION**

- a. That subject to the securing of an obligation by 13<sup>th</sup> August 2014 requiring the applicant to pay £2,100 travel plan contribution,**
  - **Conditions 5, 18 and 20 of 10/00080/OUT to be varied in the terms outlined in the application and conditions 19 and 21 of 10/00080/OUT to be deleted, and all other conditions of 10/00080/OUT to continue to apply.**
- b. That should the obligation not be secured within the above period, the Head of Planning and Development be given delegated authority to refuse the application on the grounds that without such a matter being secured the development would fail to contribute to the provision of a sustainable development; unless he considers it appropriate to extend the period for completion of the obligation.**

## **Reason for Recommendation**

Revised access details have been submitted as part of the reserved matters application which is for consideration elsewhere on this agenda (Ref. 14/00363/REM), and given that the Highway Authority is satisfied that the proposed access as shown on Drawing No. SCP/13121/001 is acceptable it is considered that the variation of Condition 5 to reflect the amended site access drawing is appropriate. PPS4 has been superseded by the NPPF and as such, there is no longer a requirement for applications for retail development of this size to be assessed against need or impact. It is not considered therefore that an objection could be sustained to the variation of Conditions 18 and 20 in the form proposed by the applicant and the removal of Condition 19. The Council has recently accepted the principle of the loss of this employment site in resolving to approve a proposal for the residential development and given that this development would provide significant employment opportunities it is not considered that Condition 21 is either necessary or reasonable.

**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.

**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 SP1: Spatial Principles of Targeted Regeneration (Kidsgrove identified as a “significant urban centre”  
Policy SP2: Spatial Principles of Economic Development  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Newcastle-under-Lyme Local Plan (NLP) 2011

- Policy E11: Development of Employment Land for Other Uses  
Policy T16: Development - General Parking Requirements

**Other Material Considerations include:**

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Relevant Planning History

- 10/00080/OUT Outline planning permission for 14 units providing some 8728 square metres of units for commercial business use (Class B1, B2 & B8) and an A1 retail foodstore of some 1,356 square metres Approved
- 13/00625/OUT Outline planning permission for the erection of up to 139 dwellings and associated works Resolution to approve on completion of Section 106 Agreement
- 14/00363/REM Application for approval of reserved matters for commercial business uses (Class B1, B2 and B8) and a small/medium sized A1 retail foodstore - Pending consideration
- 14/00432/FUL Construction of a petrol filling station to include the installation of fuel storage tanks, associated pipework, overhead canopy, forecourt surfacing, pumps and other associated works – Pending consideration

Views of Consultees

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

**Kidsgrove Town Council** objects to the proposal on the grounds that it would be detrimental to local businesses in Kidsgrove Town Centre and also would increase traffic on an already heavily busy trunk road.

The Council's **Economic Regeneration Section** states that the approval of an out of centre supermarket on this site is justified by the prior provision of small industrial units, i.e. the retail use is an enabling development for the principal use we wish to see on the site. The planning conditions attached to the supermarket were decided by the Planning Inspector and it would therefore undermine his balanced judgement if the conditions are removed. He therefore recommends refusal.

No comments have been received from **Cheshire East Council** and given that the period for comments has expired, it must be assumed that they have no observations to make upon the proposal.

## Representations

Three letters of objection have been received including a letter from **Councillor Mike Stubbs** and a letter from **Councillor Kyle Robinson**. Objection is made on the following grounds:

- Increased traffic on Congleton Road which has already reached saturation point
- Linley Road is already heavily congested and this will be exacerbated by the proposal
- Impact on nearby store owners
- No need for another supermarket
- The site should be developed for social housing

Two letters of support has been received stating that a supermarket on this site would be welcomed. More shops are needed in the area. The supermarkets are cheaper and there is more variety than in the local shops.

## Applicant's/Agent's submission

The application is accompanied by a Transport Statement, a Planning & Retail Statement and a Market Demand Report which are available for inspection at the Guildhall and on

[www.newcastle-staffs.gov.uk/planning/1400362FUL](http://www.newcastle-staffs.gov.uk/planning/1400362FUL)

## Key Issues

Outline planning permission was granted in 2011 for commercial business uses (Class B1, B2 and B8) and a small/medium sized A1 retail foodstore at Linley Trading Estate, Linley Road, Talke (Ref. 10/00080/OUT). All matters of detail were reserved for subsequent approval. This application seeks consent to vary or remove a number of the conditions of that consent.

Although objections have been received to the principle of a retail store at the site and to the impact of the development on the highway network, given that the site has outline consent which includes a retail foodstore, it is not possible to consider such matters at this stage.

Paragraph 206 of the NPPF states that planning conditions should be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The NPPG provides further guidance on the use of planning conditions.

## **Condition 5**

Condition 5 states as follows:

*Before any part of the proposed development is brought into use the proposed right turn facility and associated vehicle and pedestrian access works shall be completed in accordance with (a) Drawing No. SCP/09203/001 and (b) engineering construction details which shall first have been submitted to and approved in writing by the local planning authority.*

The stated reason for condition 5 was highway safety.

An application for approval of the reserved matters pursuant to the outline consent is for consideration elsewhere on this agenda (Ref. 14/00363/REM). Revised access details have been submitted as part of that application and as such, it is proposed to amend this condition to refer to the revised site access drawing SCP/13121/001.

The Highway Authority has considered the reserved matters application and is satisfied that the proposed access as shown on Drawing No. SCP/13121/001 is acceptable. It is considered that the variation of Condition 5 to reflect the amended site access drawing is appropriate therefore.

## **Conditions 18, 19 and 20**

Condition 18 states as follows:

*The gross retail floorspace provided under the terms of this decision shall not exceed 1,356 square metres.*

The variation sought is to allow up to 1,384 square metres of gross retail floor space.

Condition 19 states as follows:

*The retail floor space provided under the terms of this decision shall not be occupied or operated by Tesco, Sainsbury's, Asda or Morrison's (excluding Netto) or any successor in title to such companies.*

The applicant has confirmed that they have an in-principle agreement with a 'top four' operator to take the food retail unit. The application therefore seeks to remove this condition.

Condition 20 states as follows:

*At least 85% of the net sales floor space shall be devoted to the retailing of convenience goods as defined in appendix A to the "Practice guide on need, impact and the sequential approach", Department for Communities and Local Government, December 2009.*

The variation sought is to require at least 80% of the net sales floor space to be devoted to the retailing of convenience goods.

The stated reason for conditions 18, 19 and 20 was to reflect the perceived need and considerations of impact.

At the time of considering the outline planning application, PPS4 required an assessment of impact. PPS4 has since been superseded by the NPPF and Paragraph 26 of the Framework advises that when assessing applications for retail outside of town centres, local planning authorities should only require an impact assessment if the development is over a proportionate, locally set floor space threshold, or 2,500 square metres if there is no locally set threshold. The floor space now proposed is 1,384 square metres, this is considerably below the national threshold and there is no locally set threshold in place. Given that there is no requirement for applications for retail development of this size to be assessed against need or impact as referred to in the reason for these conditions, it is not considered that an objection could be sustained to the variation of Conditions 18 and 20 in the form proposed by the applicant or the removal of Condition 19.

### **Condition 21**

Condition 21 states as follows:

*Prior to first occupation of the A1 retail foodstore, a minimum of 2,434 square metres of floorspace for business, industrial or storage or distribution purposes shall have been completed on the site and made available for letting or sale.*

The Inspector stated that the reason for Condition 21 was to ensure timely provision of floorspace for business, industrial or storage or distribution purposes.

The application seeks to delete this condition.

The applicant's agent highlights the fact that a recent approval has been granted for residential use of the site (Ref. 13/00625/OUT) with no permanent employment. He also states that the retention of condition 21 would wholly prejudice the delivery of the wider scheme as it does not respond to market signals as advised by the NPPF and NPPG and any such condition would not pass the six tests of the NPPF.

As stated by the applicant's agent, the Council recently accepted the principle of the loss of this employment site in resolving to approve a proposal for the residential development of the site. In support of that application, a Marketing Report was submitted that indicated that it is unlikely that the

site will be developed for employment purposes and the Council concluded that on that basis, an objection could not be sustained to the loss of employment land. The delivery of this site would provide significant employment opportunities both in the commercial business units but also in the retail store and it is not considered that Condition 21 is either necessary or reasonable. On this basis, removal of Condition 21 is considered acceptable.

### **Section 106 Obligation**

Any approval of the current application is in effect the granting of a new outline consent. The previous consent was subject to a Section 106 obligation which required the applicant to pay £75,326 towards NTADS (Newcastle-under-Lyme (urban) Transport and Development Strategy) and £2,100 for a travel plan contribution. The obligation also had a requirement that should the site be occupied or operated by a big four operator within 5 years of the date of the permission, then an additional NTADS sum of £87,185 would be required.

It is necessary to consider whether the requirements of the previous Section 106 are still justified and necessary. 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

NTADS finished in April this year and as such it would not be reasonable to secure such a contribution at this time. The travel plan contribution is however considered reasonable.

### **Background Papers**

Planning files referred to  
Planning Documents referred to

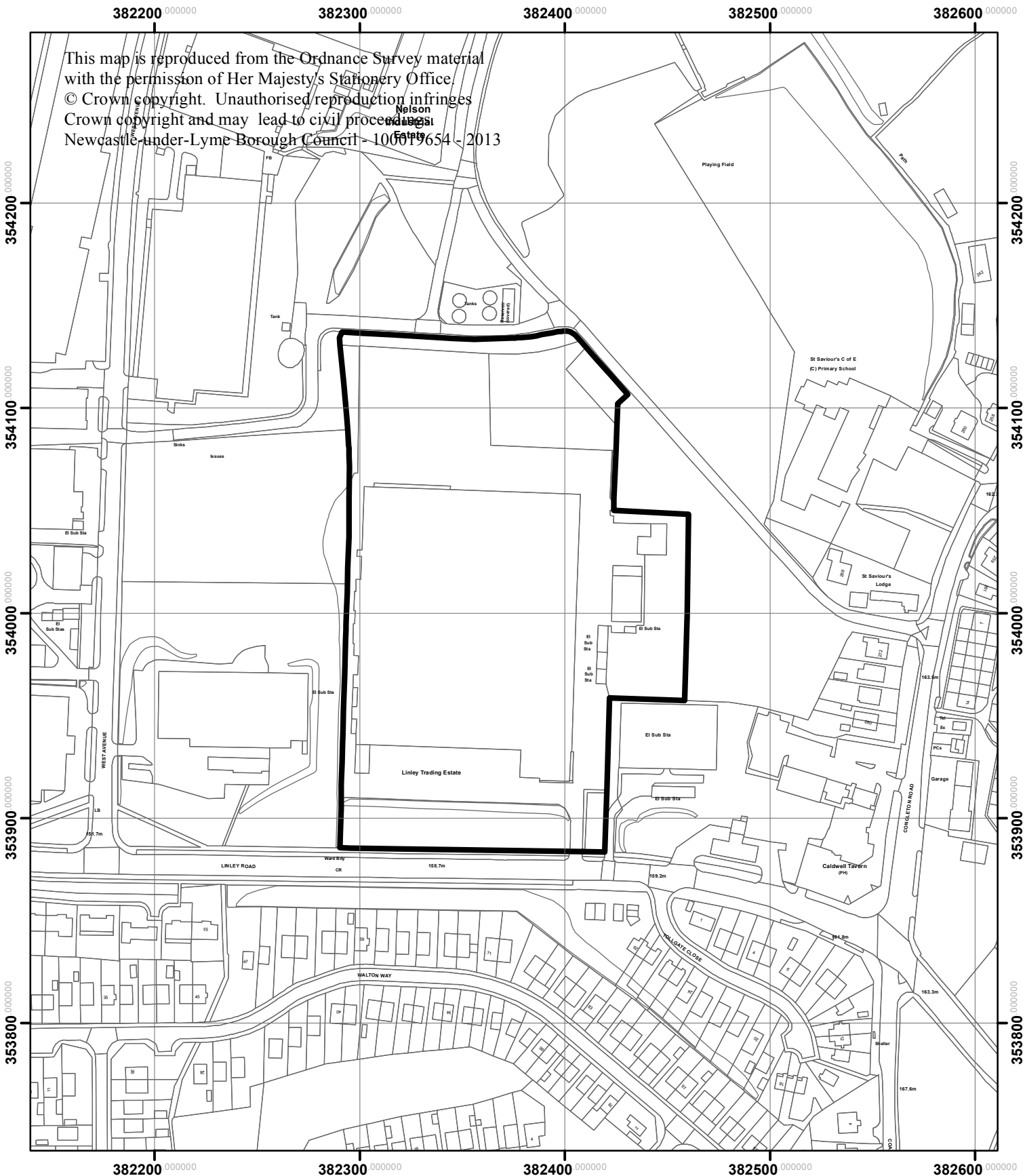
### **Date report prepared**

2 July 2014

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Unit 7 Linley Trading Estate, Linley road  
14/00362/FUL & 14/00363/REM



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**LINLEY TRADING ESTATE, LINLEY ROAD, TALKE  
REALTY ESTATES LTD**

**14/00363/REM**

The Application is for the approval of reserved matters for commercial business uses (Class B1, B2 and B8) and a small/medium sized A1 retail foodstore at Linley Trading Estate, Linley Road, Talke.

The reserved matters submitted for approval are all the matters of detail including access, appearance, landscaping, layout and scale. This approval of reserved matters follows the granting of an outline planning permission in 2011 (Ref. 10/00080/OUT).

The site lies within the Kidsgrove Neighbourhood and Urban Area on the Local Development Framework Proposals Map.

**The 13 week period for this application expires on 15<sup>th</sup> August 2014.**

## **RECOMMENDATION**

**Permit, subject to conditions relating to the following:**

- **Link to outline planning permission and conditions**
- **Approved plans**
- **Materials to be as per the submission, or other materials to be agreed in writing**
- **Submission/approval/implementation of details of site access**
- **Roads, parking, servicing and turning areas in compliance with Drawing No. 8419 P14 Rev D**
- **Compliance with arboricultural method statement**
- **Construction environmental management plan**
- **Noise assessment**
- **Restrictions on HDV activity**
- **Restrictions on access to car parking areas**
- **Lighting**

## **Reason for Recommendation**

The principle of the development has been established by the grant of outline planning permission. The design and layout of the proposal is considered acceptable in accordance with the aims and objectives of the National Planning Policy Framework and the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD. The proposal would not adversely impact on highway safety or residential amenity and there are no other material considerations which would justify a refusal of this reserved matters submission.

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

Amendments have been sought from the applicant and the proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

## **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 CSP3: Sustainability and Climate Change

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy T16: Development – General Parking Requirements

**Other Material Considerations include:**

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Supplementary Planning Documents (SPDs)

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

Relevant Planning History

10/00080/OUT Outline planning permission for 14 units providing some 8728 square metres of units for commercial business use (Class B1, B2 & B8) and an A1 retail foodstore of some 1,356 square metres Approved

13/00625/OUT Outline planning permission for the erection of up to 139 dwellings and associated works Resolution to approve on completion of Section 106 Agreement

14/00362/FUL Variation of conditions of planning permission 10/00080/OUT as follows:-  
Condition 5 regarding revised right hand turning facility and access works; Condition 18 to allow gross retail floorspace up to 1,384 square metres; and Condition 20 to require that at least 80% of the net sales floorspace is devoted to the retailing of convenience goods.  
In addition the removal of condition 19 which prevents the retail floorspace from being operated by Tesco, Sainsbury's, Asda or Morrison's; and Condition 21 which requires that a minimum of 2,434 square metres of floorspace for business, industrial or storage be made available before the foodstore is available for letting or sale -  
Pending consideration

14/00432/FUL Construction of a petrol filling station to include the installation of fuel storage tanks, associated pipework, overhead canopy, forecourt surfacing, pumps and other associated works – Pending consideration

Views of Consultees

The **Highway Authority** has no objections to the proposal subject to conditions regarding the submission, approval and implementation of details of the site access, and the provision of the access roads, parking, servicing and turning areas in accordance with Drawing No. 8419 P14 Rev D.

The **Police Architectural Liaison Officer** has no objections.

The **Landscape Development Section** has no objections subject to comments as follows:

- A greater number of trees should be planted to the frontage with Linley Road and within the supermarket car park to mitigate the loss of the existing trees and to enhance the large expanse of bitmac. The strips of planting at the end of the parking bays within the supermarket car park are very narrow and likely to be unsustainable.
- If the area of land subject to a separate application is not developed then it should be landscaped.
- The tree protection plan is satisfactory and all items within the Arboricultural Method Statement should be followed.

Amended plans have subsequently been received showing more trees along the Linley Road frontage and within the car park.

The **Environment Agency** has no objection subject to the submission of details of a drainage scheme which incorporates sustainable drainage techniques wherever practicable.

The **Environmental Health Division** states that given the proximity of the housing development allowed under 12/00127/OUT to the site, it is considered that additional conditions concerned with the management of environmental impacts associated with demolition, groundworks and construction should be imposed on the reserved matters scheme to safeguard amenity. There are no objections to this application subject to conditions regarding a construction environmental management plan, full and precise details of noise mitigation measures, restrictions on HDV activity, restrictions on access to car parking areas, lighting and supermarket trolleys.

**United Utilities** state that the site should be drained on a separate system with foul draining to the public sewer and surface water draining in the most sustainable way. To reduce the volume of surface water draining from the site the use of permeable paving on hard-standing areas is promoted. They have no objections subject to conditions regarding surface water and foul drainage.

No comments have been received from **Cheshire East Council**, **Kidsgrove Town Council**, the **Economic Regeneration Section** of the Council and the **Waste Management Section** of the Council. Given that the period for comments has expired, it must be assumed that they have no observations to make upon the proposal.

### Representations

One letter of representation has been received from **Councillor Kyle Robinson**. He objects on the grounds that a supermarket in this location would harm the town centre, increase traffic and destroy Butt Lane high street. Congleton Road has reached saturation point and the increase in traffic and congestion is leading to strangulation of the A34 and is having a major impact on local residents' health and well-being. He is concerned about the access as Linley Road is already a problem road. Another supermarket is not required and would have an adverse impact on our town centres.

### Applicant's/Agent's submission

The application is accompanied by a Transport Statement which is available for inspection at the Guildhall and on [www.newcastle-staffs.gov.uk/planning/1400363REM](http://www.newcastle-staffs.gov.uk/planning/1400363REM)

### Key Issues

The principle of the use of the site for commercial business uses (B1, B2 and B8) and a small/medium sized A1 retail foodstore has been established by the granting of outline planning permission 10/00080/OUT in 2010. All matters of detail were reserved for subsequent approval. The issues for consideration now are:-

- Is the proposal acceptable in terms of its design and impact on the form and character of the area?
- Would there be any adverse impact on residential amenity?
- Would there be any adverse impact upon highway safety?

### Is the proposal acceptable in terms of its design and impact on the form and character of the area?

The NPPF at paragraph 56 indicates that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. At paragraph 64 it states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy CSP1 of the CSS lists a series of criteria against which proposals are to be judged including contributing positively to an areas identity in terms of scale, density layout and use of materials.

The proposed store would be sited to the front of the site. There would be a small amount of parking to the front but the majority would be to the east of the store. The building would be predominantly constructed with white horizontal cladding with sections of horizontal timber boarding on both the front elevation and the elevation facing the car park. The store would have a large area of glazing and a

projecting lobby area on its front elevation. It would be a building of approximately 6.3m in height. The servicing would be sited to the rear

Your Officer had some concerns regarding the original landscaping plan for the site, specifically with regard to the limited landscaping to the road frontage and within the store car park. Amended plans have been received showing additional trees along the frontage and some trees sited centrally within the car park. The Landscape Development Section has advised that the landscaping is sufficient. It is considered therefore that the proposed landscaping, which will help to soften the appearance of the car park, is acceptable.

The commercial business element of the scheme would comprise four buildings of varying dimensions. The maximum height of the buildings would be 8.8m. The buildings would have pitched roofs and the materials would comprise silver and grey horizontal cladding.

The area is of a mixed commercial and residential character and it is considered that this scheme, with the retail store creating an active site frontage, would be appropriate in terms of its design and impact on the form and character of the area.

Would there be any adverse impact on residential amenity?

The comments of the Council's Environmental Health Division were received in relation to the outline consent and they considered that the proposed development was unlikely to give rise to any loss of amenity to the surrounding area and had no objections subject to conditions. A number of conditions were attached to the outline consent that was allowed at appeal. If the development is undertaken in accordance with any permission granted on this reserved matters application it would have to comply with such conditions.

The Environmental Health Division has commented on the reserved matter scheme and has no objections subject to the imposition of additional conditions. Subject to further conditions, it is not considered that any objection could be raised to this reserved matters submission on the grounds of impact on residential amenity.

Would there be any adverse impact upon highway safety?

The site would be served by a single access from Linley Road at the eastern end of the site frontage. The foodstore would have 105 parking spaces and the commercial business units would be served by a total of 182 parking spaces. A Transport Statement that accompanies the application concludes that there will be a very marginal increase in traffic flows which will not have any detrimental impact on the operation of the proposed site access junction or the wider highway network.

Although an objection has been received regarding increased traffic and congestion in Butt Lane, the site benefits from outline consent for business uses and a retail store and therefore, an objection to the principle of such uses in terms of their impact upon the highway network could not now be sustained.

The Highway Authority has no objections to the detail of the proposal subject to conditions and therefore, the proposal is considered acceptable in terms of impact on highway safety.

**Background Papers**

Planning files referred to  
Planning Documents referred to

**Date report prepared**

30 June 2014

**LAND ADJACENT HAMPTONS METAL MERCHANTS, KEELE ROAD, NEWCASTLE  
PERSIMMON HOMES (NORTH WEST)**

**14/00269/FUL**

The Application is for the variation of Condition 16 of planning permission 03/00790/REM which requires the provision of two bus stops, including shelters, within the housing development off Keele Road. The variation sought is to provide one bus stop rather than two.

The site lies within the Urban area of Newcastle as designated on the Local Development Framework Proposals Map.

The application was deferred at the 24<sup>th</sup> June 2014 Planning Committee to enable the Highway Authority to enquire of other bus operators whether they would be willing to send a bus service into the site.

**The 13 week period for this application expires on 23<sup>rd</sup> July 2014.**

## **RECOMMENDATION**

**(a) That subject to the securing of an obligation by 21<sup>st</sup> July 2014, committing the developer to the obligations contained within the previous S106 agreement (unless already complied with),**

- **Condition 16 of 03/00790/REM to be varied and all other conditions of 03/00790/REM to continue to apply.**

**(b) That should the obligation not be secured within the above period, the Head of Planning and Development be given delegated authority to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on open space provision and the objective of enhancing and encouraging the use of Pool Dam marsh; unless he considers it appropriate to extend the period for completion of the obligation.**

## **Reason for Recommendation**

The principal bus operator has advised that it is unwilling to send a bus into the site any further than the roundabout. However, even if a different bus operator were to advise that it is willing to send a bus service into the site, a significant proportion of the residents on the site would be within a reasonable walking distance of the bus stop proposed at the entrance to the site and existing bus stops on Orme Road. Therefore, the provision of one bus stop is considered acceptable.

## **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.

## **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 SP3: Spatial principles of Movement and Access

Policy CSP1: Design Quality

Newcastle-under-Lyme Local Plan (NLP) 2011

Nil

## **Other Material Considerations include:**

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

#### Relevant Planning History

- 99/341/OUT Outline planning permission granted for residential development – Approved
- 02/1107/REM Details of the means of access to the housing development and scrapyards – Refused but subsequently allowed on appeal in May 2003
- 03/790/REM Details of 280 houses and apartments – appeal lodged against failure of the Local Planning Authority to determine the application within the appropriate period. Council resolution 21 September 2004 that had the appeal not been lodged it would have granted the application subject to various conditions. Appeal allowed 27 July 2005 and costs awarded against the Authority.
- 04/1051/FUL Variation of condition on outline planning permission 99/341/OUT for residential development relating to time period within which any application for approval of the reserved matters can be made – Refused
- 06/774/FUL Variation of condition on outline planning permission 99/341/OUT relating to time period within which any application for approval of reserved matters can be made – Approved
- 07/156/REM Substitution of house types for 53 plots – Approved
- 07/529/REM Substitution of house types for plots 52-69, 139-144 and 281-288 (32 dwellings) - Withdrawn
- 07/755/REM Reserved matters - substitution of house types on 31 plots of scheme approved under 07/156/REM – Approved
- 07/939/REM Reserved matters - substitution of house types for 33 dwellings – Approved
- 08/81/REM Reserved matters - substitution of house types for 59 dwellings – Approved
- 08/614/REM Substitution of house types – Approved
- 09/00078/FUL Substitution of house types for 48 plots – Approved
- 09/00387/FUL Substitution of house types – 21 units – resolution to approve 5 January 2010
- 11/00123/FUL Erection of 76 dwellinghouses (amended layout including 14 additional dwellings) - Refused
- 11/00430/FUL Erection of 61 dwellings (amended layout including 13 additional dwellings) – Approved

#### Views of Consultees

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

The **Poolfields and Clayton Locality Action Partnership** query the siting of the bus stop. They state that most of the occupiers of the houses are car owners and so the stop should be sited close to the apartments where people are less likely to be car owners.

#### Representations

Two letters of support have been received. It is stated that the route around Galingale View is not suitable for buses due to highway safety concerns. Also, one bus stop for the development is sufficient considering the high level of car use.



## Applicant's/Agent's submission

Nil

## **Key Issues**

Outline planning permission was granted in 2000 for the residential development of the Keele Road housing site (ref. 99/00341/OUT). An approval of reserved matters for 280 houses and apartments was subsequently allowed at appeal in July 2005 (ref. 03/00790/REM). This application seeks consent to vary Condition 16 of planning permission 03/00790/REM. The condition states as follows:

*Details of two bus stops, including shelters, shall be submitted to and approved in writing by the local planning authority. In each case, no dwelling in the nearest phase to the bus stop shall be occupied until the bus stop is completed in accordance with the approved drawings.*

The variation sought is to provide one bus stop rather than two.

Earlier this year, Persimmon submitted an application for the approval of the details required by Condition 16 (Ref. 03/00790/CN16). They indicated two bus stops as required by the condition, one to the south of the roundabout at the entrance to the housing site and another to be located on Galingale View, to the north of the play area. In considering the submitted details, the Highway Authority were in contact with the principal bus operator, First Bus, who advised that they would not consider sending a bus service into the site to provide a direct link to the proposed northern bus stop on Galingale view. They did agree to divert a bus to the proposed stop at the site access which would then turn around on the existing roundabout within the site. In light of the response they had received from the bus operator the Highway Authority objected to the proposed bus stop on Galingale View. The applicant was advised of the response of the Highway Authority which encouraged the submission of this application so that they could address the issue of concern without a breach of condition arising.

The main issue for consideration is whether the reduction in the number of bus stops from two to one would have an adverse impact upon the accessibility of the development and the ability of residents to use alternative modes of transport to the car.

Whilst some third parties suggest that the highway within the estate would not be able to accommodate a bus service this is not the view of the Highway Authority

The nearest bus stops currently are 265m to the west and 220m to the east of the entrance to the development. The failure to secure a bus stop centrally within the site will result in residents at the northernmost point of the site having to walk approximately 650m to the bus stop at the entrance to the site rather than approximately 350m if the second bus stop were to be provided. The national recommended distance for a suitable walking distance from a property to a bus stop is 400m. A significant number of the properties within the north eastern part of the site are within 400m walking distance from bus stops on Orme Road which are accessible via a footpath past the Orme Road Community Centre off Rotterdam Road. The No.25 bus service, which is of a very high frequency, runs along Orme Road.

The principal bus operator has advised that it is unwilling to send a bus into the site any further than the roundabout presumably because it would increase running time and they do not consider the diversion worthwhile, and clearly, significant weight has to be given to this. When the outline planning permission was granted for this development (in 2000) no contribution to induce the operator to at least initially provide a service within the estate was secured - in contrast with the current practice of the Highway and Planning Authority on developments of a similar scale. Even if a different bus operator were to advise that it is willing to send a bus service into the site, a significant proportion of the residents on the site would be within a reasonable walking distance of the bus stop proposed at the entrance to the site and existing bus stops on Orme Road. Therefore, the provision of one bus stop is considered acceptable.

Notwithstanding the views of your Officer, set out above, in accordance with the resolution of Committee at the meeting of 24th June 2014 the Highway Authority has been asked to enquire of

other bus operators whether they would be willing to send a bus service into the site. Any further comments from the Highway Authority will be reported to Members.

**Background Papers**

Planning files referred to  
Planning Documents referred to

**Date report prepared**

2<sup>nd</sup> July 2014

# Land adjacent to Hamptons Metal merchants , Keele Road 14/00269/FUL



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SQUIRES COPPER, MOUNT ROAD, KIDSGROVE  
EDGEWAY DEVELOPMENTS

14/00235/REM

The application is for the approval of the reserved matters, appearance and landscaping, following the granting of outline planning permission for 12 residential dwellings (access, layout and scale having been approved when outline planning permission was granted).

The application site is 0.47 hectares and is within the Kidsgrove Urban Neighbourhood as indicated on the Local Development Framework Proposals Map and is within the Major Urban Area.

**The 13 week period for the determination of this application expires on 15th August 2014.**

## **RECOMMENDATION**

**Permit subject to the following conditions;**

- **Link to outline planning permission and conditions**
- **Plans and finishing materials as per application details**
- **Notwithstanding the submitted landscape details, an amended scheme includes replacement trees for those damaged on site to be submitted, approved and implemented.**

## **Reason for Recommendation**

The principle of residential development on the site has been established with the granting of outline planning permission together with details of the access arrangements, layout and scale of the development. The appearance and landscaping as submitted are considered acceptable, subject to replacement tree planting, and in accordance with development plan policies and guidance and the requirements and guidance of the National Planning Policy Framework. Subject to the imposition of the above conditions, there are no material considerations which would justify a refusal of this reserved matters submission.

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

Pre application discussions took place with regular contact throughout the application process and additional and amended information has been submitted. This is 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 this decision:-**

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

Strategic Aim 16: To eliminate poor quality development;

Policy CSP1: Design Quality

Policy CSP3: Sustainability and Climate Change

Newcastle-under-Lyme Local Plan 2011

Policy N12: Development and the Protection of Trees

Policy T16: Development – General Parking Requirements

## **Other material considerations include:**

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

#### Supplementary Planning Guidance/Documents

Space Around Dwellings (July 2004)  
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)

#### Waste Management and Recycling Planning Practice Guidance Note (January 2011)

#### Planning History

10/00278/OUT	12 dwellings	Permitted
10/00278/EXTN	Extension of time limit for implementing planning permission 10/00278/OUT for 12 dwellings	Permit
10/00278/NMA	Application for a non-material amendment to reposition plot 4 away from turning head due to engineering works and levels and reduction in height of plots 5-12 from 2.5 storey to 2 storey relating to Planning Permission 10/00278/OUT - 12 dwellings	Permit

#### Views of Consultees

**Kidsgrove Town Council** raises no objections

The County Council as the **Education Authority** detail that they made comments on the outline application (10/00278/EXTN) and these are still applicable.

The **Landscape and Development Section** raises no objections to the landscaping proposals subject to replacement trees required by condition 5 of the outline planning application.

#### Representations

Nil

#### Applicant/agent's submission

A Design & Access Statement has been submitted to support the application which details the following;

- The outline planning permission granted on 13TH August 2010, and extended on the 12th November 2013, ref 10/00278/EXT. has established the principle of residential use on this site.
- The reuse of this brownfield site for the provision of a residential development will provide good quality, useable homes in the area.
- The proposed dwellings have been designed in a traditional style, using good quality detailing and materials.
- Bays and gable ends have been incorporated to add interest to the facades and windows are recessed to give added depth.
- The dwellings will be constructed using red brick, the predominant material in the area, with buff coloured, reconstituted stone heads and cills to front elevations and buff brick band courses.
- Grey tiles are proposed for the roof, white UPVC for windows and black composite front doors.
- Refuse bins are to be stored in private rear gardens and presented onto the access road on collection days.
- A planting species plan, prepared by Landscape Architects TPM, also supports this application

These application details are available to view at the Guildhall or using the following link;

[www.newcastle-staffs.gov.uk/planning/1400235REM](http://www.newcastle-staffs.gov.uk/planning/1400235REM)

## **KEY ISSUES**

The principle of residential development on this site was established in the outline planning permission with access, layout and scale approved under application 10/00278/OUT and 10/00278/EXTN. A non-material amendment was accepted for the repositioning of Plot 4 away from the turning head and the scale of Plots 5-12 being reduced from 2.5 storey to 2 storey in height.

As the application being considered seeks approval of the appearance of the dwellings and landscaping details, the only issue to be addressed is whether the submitted elevation details and landscaping details are acceptable in appearance.

### The appearance of the dwellings and the impact on the visual amenity of the area

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.

The NPPF further details in paragraph 64 that permission should be refused for development of poor design that fails to take opportunities available for improving the character of an area.

The Urban Design SPD indicates in R14 that “Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them.”

The layout and scale of the development have been established and agreed at the stage that outline planning permission was granted, and are considered to comply with the policies of the urban design guidance. The external appearance and use of materials are now to be agreed and should seek to compliment the already approved layout and scale of the proposals. The landscaping part of the proposals would also contribute to the appearance of the development.

The design of the five pairs of semi-detached dwellings is identical to each other. Each dwelling would each have a projecting gable feature on the front elevation with a canopy over the entrance door. Materials are proposed to be red brick (Ibstock Etruria mixture) and Slate grey roof tiles with stone window headers and cills.

The two detached properties would also have the features of the above whilst also utilising the same facing materials. Plot one would be visible from Mount Road and the side/ gable elevation facing this vantage point has two small windows. Further design interest to break up the solid brick appearance of this elevation would have been preferable but due to the existing trees being retained and the proposed shrub planting (as part of the landscaping scheme), the elevation is not prominent in the street scene and therefore in these circumstances is considered to be acceptable. .

The proposed appearance of the dwellings is considered acceptable and could be best described as traditional.

For the avoidance of doubt all principal windows are located on the front and rear elevations and these were considered in the outline application and comply with the standards set out in the SPG.

The proposed landscaping would be simple with hardstanding paths to the front and side with patio areas to the rear. Turf areas to the front and rear is proposed with a number of existing trees maintained and tree planting to each property at the front. The proposal is considered to offer a good balance of soft and hard landscaping.

The landscape and development section has requested further replacement trees to be incorporated within the submitted scheme due to damage and loss to existing trees on site. The applicant is working to address this issue and a condition securing this is considered appropriate.

The submitted landscaping details and external elevations are considered appropriate for the approved residential development in this location. Details of hardstandings and boundary treatments should be secured via a condition.

**Background Papers**

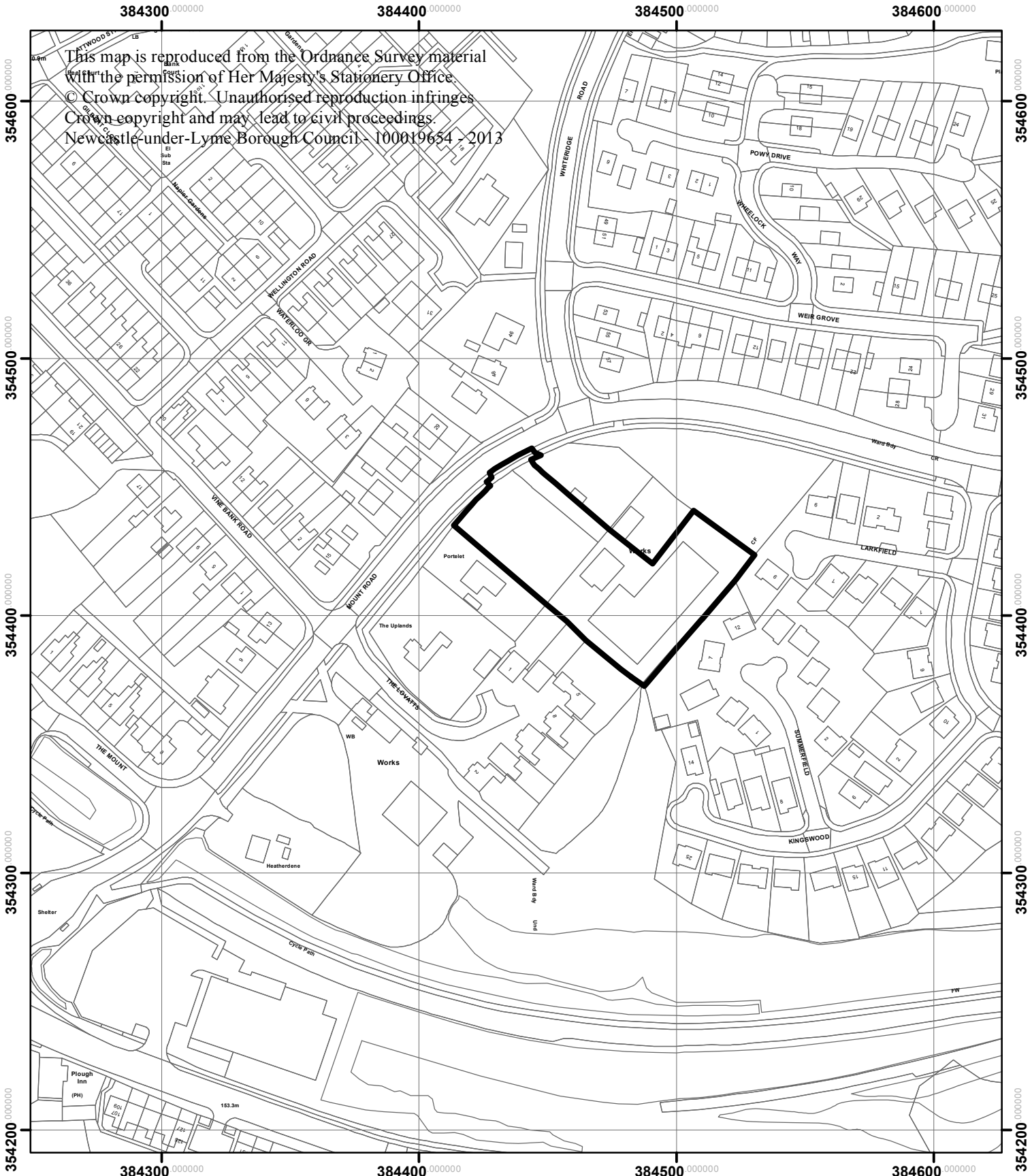
Planning file  
Planning documents referred to

**Date report prepared**

1<sup>st</sup> July 2014



# Squires Copper Mount Road Kidsgrove 14/00235/REM



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GRASS VERGE, CLAYTON ROAD, CLAYTON  
VODAFONE LTD

14/00398/FUL

**The Application** is for full planning permission for the replacement of the existing 15 metre monopole with a 17.5 metre dual user monopole and the installation of 2 new equipment cabinets and associated works. The proposed pole would be a shared structure between mobile phone operators Vodafone and O2 (Telefonica).

The proposal would be located on a grass verge adjacent to Clayton Lane which is within the urban area and within the Clayton Conservation Area, as indicated on the Local Development Framework Proposals Map.

**The statutory determination period for the determination of this application expires on 16<sup>th</sup> July 2014.**

## **RECOMMENDATION**

**Permit subject to an amended plan being submitted prior to the committee meeting repositioning the equipment cabinets to the south of the monopole and the following conditions;**

- (i) Standard time limit**
- (ii) Approved plans**
- (iii) Equipment cabinets to be coloured green**
- (iv) Submission and approval of an arboricultural method statement and an arboricultural site monitoring schedule to BS5837:2012**

## **Reason for Recommendation**

The proposed development is considered to represent an acceptable design that would not result in a significant and adverse harm to the visual amenity of the area or the character and appearance of the Clayton Conservation Area, subject to the proposed equipment cabinets being coloured green and repositioned to the south of the monopole to avoid root protection areas of adjacent trees. Any minimal impact of the increased height of the structure would be outweighed by the demonstrated technical need for the development and the proposal being an upgrade of an existing structure. Due to the submission of the ICNIRP declaration as part of the proposal it is accepted that the development would not have an adverse impact upon the health and well being of local people. The proposed development would therefore adhere to the principles set out within the NPPF and comply with policies T19, N12, B9, B10, B13, B14 and B15 of the Newcastle under Lyme Local Plan as well as policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026.

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

Discussions during the application process have been ongoing between officers and the applicant's representatives in order to address concerns. Subject to an amended plan being submitted the proposal is now considered to be a sustainable form of development and so complies with the aims and objectives of the National Planning Policy Framework.

## **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)

CSP1: Design Quality

CSP2: Historic Environment

## Newcastle under Lyme Local Plan 2011

T19: Telecommunications Development – General Concerns  
T20: Telecommunications Development – Required Information  
B9: Prevention of Harm to Conservation Areas  
B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area  
B12: Provision of Services in Conservation Areas  
B13: Design and Development In Conservation Areas  
B14: Development in or Adjoining the Boundary of Conservation Areas  
B15: Trees and Landscape in Conservation Areas

### **Other Material Considerations include:**

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

### Relevant Planning History

12/00142/FUL Installation of a 15m high telecommunications slimline street pole, shrouded antennas, associated cabinets and ancillary development Permit

### Views of Consultees

The **Environmental Health Division** raises no objections

The **Highways Authority** raises no objections subject to a condition that the pole and associated cabinets are sited in accordance with the submitted site plan.

The Council's **Urban Design and Conservation Officer** raises no objections to the replacement of the monopole and given that the new cabinet will be located close to the existing one, considers that this will not harm the overall appearance of the conservation area on the main road verge.

The **Conservation Advisory Working Party (CAWP)** raises no objections but considered that the proposed increase in height for the pole is the maximum height acceptable within the Conservation Area and that the pole should stay white and the cabinets should be painted green as existing..

The **Landscape Development Section** has raised concerns given the position of the structure in relation to the adjacent trees. It is likely that significant tree roots could be encountered within the half meter depth excavation required for the box. The equipment cabinets should therefore be repositioned. Further information regarding the facilitation pruning works is required as the replacement mast is in close proximity to the canopy of the Beech tree. Should planning permission be granted then conditions regarding an arboricultural method statement and an arboricultural site monitoring schedule BS5837:2012 are advised.

### Representations

No letters of representation have been received.

### Applicant/agent's submission

A Design and Access Statement and supporting information has been submitted to support the application which outlines the following comments;

- This proposal is a dual user monopole and would contribute to the roll out of 4G coverage within the area.
- The proposal would increase the height of the existing monopole from 15m to 17.5 metres with two additional cabinets
- Consultation has been carried out with the LPA, local ward councillors, the local MP and nearby schools. No responses were received.
- The site is within the Clayton Conservation Area.

- The Conservation Area is primarily the grounds of Clayton Hall. Incorporation of the highway verge to Clayton Road within the Conservation Area ensures protection to highway trees.
- The application is for the upgrade of an existing structure to improve coverage which is in accordance with local and national policy.

The applicant has declared that the proposal conforms to International Commission on Non-Ionising Radiation Protection (ICNIRP) Public Exposure Guidelines.

The full documents are available for full inspection at the Guildhall and on the Council's website

[www.newcastle-staffs.gov.uk/planning/1400398FUL](http://www.newcastle-staffs.gov.uk/planning/1400398FUL)

### **KEY ISSUES**

The proposed telecommunications equipment would upgrade an existing structure on a grass verge adjacent to the busy Clayton Road, which connects the A500 to Newcastle Town Centre. The grass verge is on the edge of, but within, the Clayton Conservation area

The applicant has detailed that the replacement equipment would be a shared structure that would provide new 4G coverage to the area.

The NPPF advises that local planning authorities should support the expansion of electronic communications networks, including telecommunications. It also encourages the use of existing masts, buildings and structures unless the need for a new site is justified. Local planning authorities should determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system, or determine health safeguards if the proposal meets International Commission guidelines for public exposure.

The NPPF details that local plan policies should be given due weight according to the degree of consistency with the framework. Policy T19 of the Local Plan supports proposals for telecommunications development that do not unacceptably harm the visual quality and character of sensitive areas and locations such as the countryside and do not adversely affect the amenity of nearby properties. Such development is also supported provided that there are no other alternative suitable sites available.

The applicant has provided a Declaration of Conformity with ICNIRP Public Exposure Guidelines and it is therefore felt not necessary to consider this as a key issue.

Given the policy support, in principle, for communications infrastructure, the main issues for consideration in the determination of this application are therefore;

- How was the site selected?
- Impact of the proposal on the Clayton Conservation Area and the impact on trees?
- Impact upon the visual amenity of the area?
- Does the proposal comply with current guidance on health concerns?

### **Site Selection Process**

As indicated, the proposal is to upgrade the existing structure by replacing the existing 15 metre shared monopole with a 17.5 metre monopole and two additional equipment cabinets.

The replacement equipment would provide new 4G network coverage that is now being rolled out throughout the UK. The upgrade of an existing site is considered an appropriate solution as opposed to a new site within the area. No alternative sites have therefore been considered.

Members can if they wish locate other existing telecommunications sites in the area by visiting [www.sitefinder.radio.gov.uk](http://www.sitefinder.radio.gov.uk).

### **Impact on the Clayton Conservation Area and the impact on trees**

The grass verge is adjacent to a busy highway but falls within the Clayton Conservation Area. The conservation area is primarily centred around the former Clayton Hall but also includes some cottages and converted rural buildings to the south around 'The Green'. The application site is beyond the boundary of Clayton Hall and towards the west adjacent to a bank of mature trees shielding Clayton Hall from the busy highway.

The NPPF details in paragraph 134 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Policy CSP2 of the CSS indicates that the Council will seek to preserve and enhance the character and appearance of the historic heritage of the Borough. Policy B9 of the local plan details that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas.

The existing monopole is set against the back drop of the existing mature trees that screen the proposal from distant views, particularly from the north and east. The existing monopole does not appear to clear the height of the trees and these are likely to disrupt network coverage. The increase in height of an additional 2.5 metres would clear the existing trees.

The proposed cabinets are located close to an existing tree and are likely to be within the root protection area of the tree. Policy B15 of the local plan details that trees and landscape features which contribute to the character and appearance, and are part of the setting of a Conservation Area, should be retained.

The Landscape Development Section has raised concerns about the location of the equipment cabinets and the likely impact on tree roots and has suggested the repositioning of the equipment cabinets is the most appropriate solution. This has been brought to the applicant's attention who has advised that amended plans will be submitted which will reposition the two proposed equipment cabinets to the south of the existing.

It is considered that the location of the proposed cabinets is the most appropriate location to provide symmetry with the existing pole and cabinet. However, due to the likely impact on the tree the relocation of the cabinet to the south is considered acceptable subject to it being painted green. In order to minimise the impact on trees the conditions recommended by the landscape section regarding the submission and approval of an arboricultural method statement and an arboricultural site monitoring schedule are considered appropriate.

In consideration of the above the proposed increase in height of the monopole and the additional equipment cabinets are deemed to be acceptable subject to the applicant submitting an amended plan which shows the cabinets being repositioned to the south. The proposal would not harm the character or appearance of the conservation area due to the proposal being an upgrade of an existing structure that has the benefit of good tree screening and is located adjacent to a major road into the town with a proliferation of existing galvanised steel lighting columns, speed cameras, telecommunication cabinets and road signs. It would also benefit from a back drop of mature trees and so views of it from Clayton Hall and the wider conservation area would be minimal.

#### Impact upon the visual amenity of the area

The surrounding land use has a predominantly residential character but Clayton Road is a busy highway that dissects the residential area and has educational, health and commercial uses adjacent. The highway is lined by vertical street columns with a proliferation of other street furniture within the vicinity. The existing structure and equipment cabinets assimilate well within the large grass verge and existing street furniture. The existing trees on the highway verge and the back drop of mature trees result in very minimal harm to the visual amenity of the area, particularly when it is acknowledged that a monopole and an equipment cabinet is already present. Whilst the proposal would increase the height of the proposal by 2.5 metres it is considered that the additional impact would be minimal. The two additional cabinets would also not result in a significant harm to the visual amenity of the area.

In consideration of the above the view is that the proposed development would not result in a significant adverse harm to the visual amenity of the area.

Does the proposal comply with current guidance on health concerns?

The application is accompanied by a certificate of compliance with the ICNIRP guidelines for public exposure and the NPPF advises that the LPA should therefore accept that the proposal meets the International Commission guideline for public exposure. Furthermore, no objections have been raised by the Environmental Health Division.

Background Papers

Planning File referred to  
Planning Documents referred to

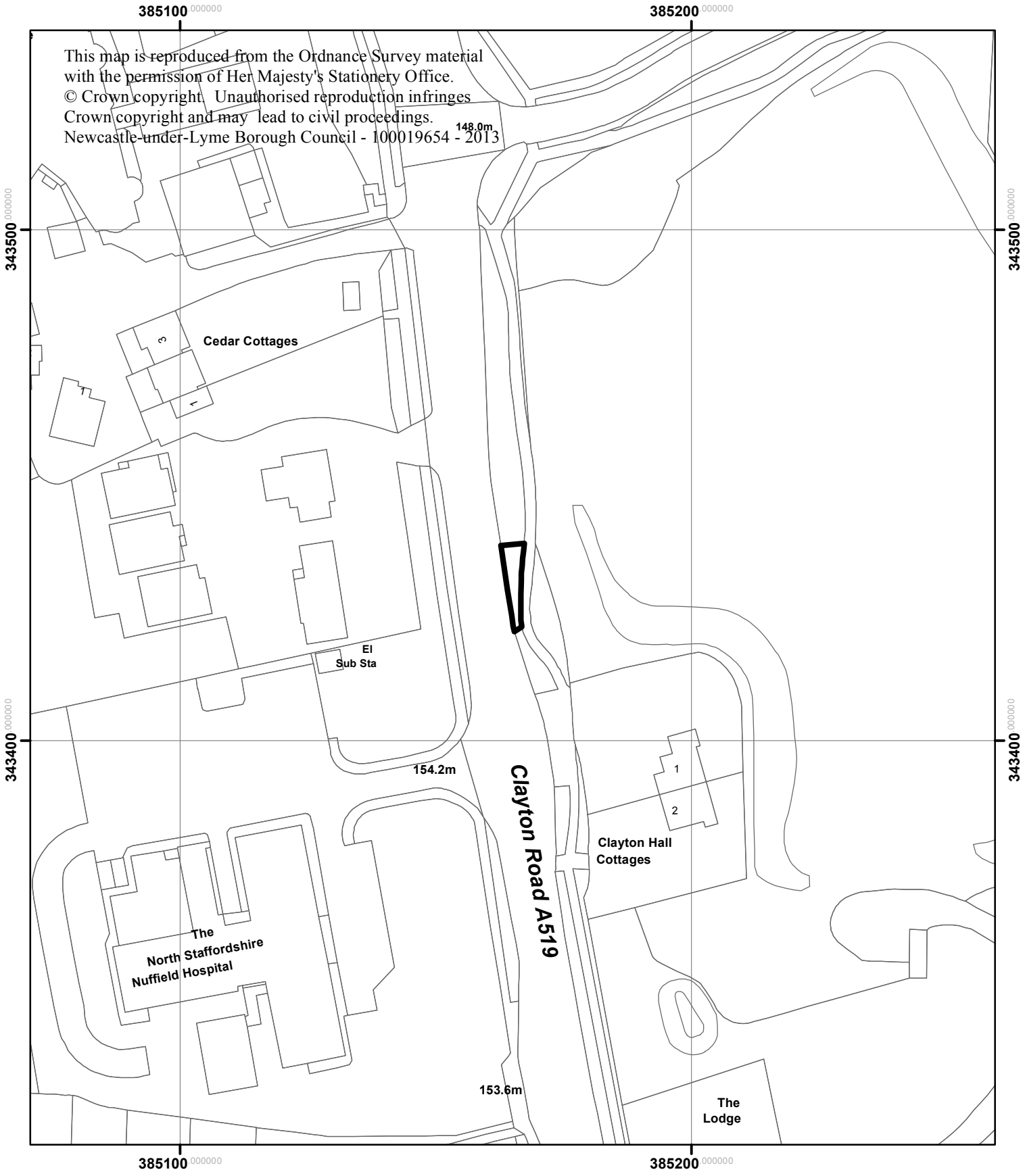
Date report prepared

1<sup>st</sup> July 2014

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Grass Verge near Clayton Hall Cottages,  
Clayton Road  
14/00398/FUL



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BOWER END FARM BOWER END LANE  
VODAFONE LTD

14/00448/FUL

The application is for full planning permission for the upgrade of an existing telecom base station to meet the needs of 4G. The existing 21m high lattice tower would be retained with the existing two antennas being removed and replaced with 4 new ones, and install 1 new and relocate 1 existing 300mm dish. In addition a new equipment cabinet is proposed within the existing compound.

The site is located within open countryside in an area of Landscape Enhancement as defined on the Local Development Framework Proposals Map.

**The statutory determination period for the determination of this application expires on 31<sup>st</sup> July 2014.**

## **RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Commencement within 3 years;**
- 2. Development being carried out in accordance with the approved Plans;**
- 3. Equipment cabinets to be finished in green.**

## **Reason for Recommendation**

In assessing its siting and design it is considered that the replacement mast head fittings and associated equipment cabinet would not materially harm the visual amenity of the area due to its acceptable height, design and location within the landscape. The proposal would also support the expansion of the communications network in this area. The proposal would therefore meet the guidance and requirements of the NPPF and it would also comply with policies T19 and N20 of the Newcastle under Lyme Local Plan as well as policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS).

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

This is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

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

CSP1: Design Quality

ASP6: Rural Area Spatial Policy

Newcastle under Lyme Local Plan 2011

T19: Telecommunications Development – General Concerns

T20: Telecommunications Development – Required Information

N20: Areas of Landscape Enhancement

## **Other Material Considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

## **Relevant Planning History**

01/00566/TDETPERMIT	30.07.2001	Prior approval required for telecommunications apparatus.
04/00358/FUL PERMIT	17.05.2004	20m telecommunications lattice tower supporting 4 antennae, two 600mm dishes with ground based equipment cabinets and ancillary development.
05/00534/FUL PERMIT	28.07.2005	Removal of existing 15m telecommunications pole and replacement with 20m high pole, relocation and addition of antennae and cabinets and extension to existing compound.

### **Representations**

No letters of representation have been received.

### **Consultations**

**Madeley Parish Council** has no objections.

The **Environmental Health Division** has been consulted on the application; any comments received will be reported.

### **Applicant's submission**

The agent has submitted a Design and Access Statement and other supporting information in relation to the proposal. A summary of the key points are as follows;

- The overall height of 21.3 metres has been kept to a technical minimum to maintain existing coverage and capacity. The proposed height would also cater for the future 4G coverage roll out within the area.
- The overall width of the antennas would increase from 1 to 1.5 metres giving dual user capabilities.
- The three dishes are required in this instance to maintain a robust secure link to a nearby base station site.
- The proposed equipment cabinet will be located alongside the existing lattice tower. It should be recognised that on their own merits they do not normally require a formal determination often being permitted development. It will have a similar appearance to existing cabinets in the compound and will be painted green to match surroundings.
- The applicant has detailed that use of alternative sites was not considered in this instance, upgrade of the existing facilities will not increase the proliferation of telecommunication apparatus and this remains the best location.

The key points of the NPPF, in particular section 5 has been summarised along with the key points of The Code of Best Practice on Mobile Network Development (July 2013).

The applicant has declared that the proposal conforms to International Commission on Non-ionising Radiation Protection (ICNIRP) Public Exposure Guidelines.

The full document is available for full inspection at the Guildhall and on the Council's website [www.newcastle-staffs.gov.uk/planning/1400448FUL](http://www.newcastle-staffs.gov.uk/planning/1400448FUL)

### **Key Issues**

This application is for full planning permission for an upgrade of an existing telecommunications equipment to meet the needs of 4G. The development would retain the existing 21m high lattice column, replace the existing two antennas with 4 new ones with new stand-off brackets at the top to the tower, and install 1 new and relocate 1 existing 300mm dish. The two existing equipment cabinets would be retained and an additional cabinet is proposed. The new installation would be operated by Vodaphone.

The National Planning Policy Framework (NPPF) at paragraph 42 details that:

*“Advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.”*

At paragraph 43 it goes on the state that LPAs should support the expansion of electronic communications networks, including telecommunications and high speed broadband.

As such there is national policy support in principle for telecommunications development and this must be taken into consideration as to whether planning approval should be granted.

Policy T19 of the Local Plan states that application for telecommunications equipment will be approved provide they do not unacceptably harm the visual quality and character of sensitive areas and locations such as the countryside and do not adversely affect the amenity of nearby properties. Such development is also supported provided that there are no other alternative suitable sites available. This is an upgrade of an existing installation so location is determined and the key issue is accordingly appearance.

Given the policy support, in principle, for communications infrastructure, the main issues for consideration in the determination of this application are therefore;

- How was the site selected?
- Impact of the proposal on the appearance of the area?
- Does the proposal comply with current guidance on health concerns?

#### Site Selection Process

As indicated, the proposal is to upgrade the existing structure.

The replacement equipment would provide new 4G network coverage that is now being rolled out throughout the UK. The upgrade of an existing site is considered an appropriate solution as opposed to a new site within the area. No alternative sites have therefore been considered.

Members can if they wish locate other existing telecommunications sites in the area by visiting [www.sitefinder.radio.gov.uk](http://www.sitefinder.radio.gov.uk)

#### Appearance

Policy N20 of the Local Plan states that within Areas of Landscape enhancement it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The application site is an existing telecom compound in the corner of a field. The proposal would retain the existing tower and be of the same overall height, the only difference in the transmission equipment being the head. On the ground the new cabinet would be largely contained within one of the existing to give a ‘parasitic’ conversion and therefore the appearance would not differ a great deal to the existing cabinet. The green colour scheme proposed is similar in nature to the equipment cabinets to be retained. The surrounding fence would remain the same.

With regard to the landscape impact, in consideration of the limited views of the installation from public vantage points and the fact that tall trees will screen the majority of the mast and ground based equipment, it is considered that the development will not further erode the character or quality of the landscape.

The proposal is not considered to result in a significant and harmful impact to the visual amenity of the area and any harm would be outweighed by the benefits that arise from the

improved network that the proposal would achieve. The proposal is therefore considered to comply with local and national telecommunications policies and that approval should be granted.

The proposal would also support the expansion of the two networks within this populated area, which is a key principle of the NPPF. The applicant has also detailed that the structure would provide future 4G network coverage and result in other structures likely to be decommissioned due to this replacement structure providing the necessary future network benefits.

Does the proposal comply with current guidance on health concerns?

The application is accompanied by a certificate of compliance with the ICNIRP guidelines for public exposure and the NPPF advises that the LPA should therefore accept that the proposal meets the International Commission guideline for public exposure.

**Background Papers**

Planning File referred to  
Planning Documents referred to

**Date report prepared**

27<sup>th</sup> June 2014

**MAERFIELD GATE FARM, STONE ROAD, BLACKBROOK**  
**MR STEVE BOOTH**

**14/00412/FUL &**  
**14/00413/FUL**

Two planning applications have been submitted to the Authority for the removal of planning conditions attached to planning application 11/00599/FUL and 11/00601/FUL both of which were allowed on appeal.

Application reference number **14/00412/FUL** is for the removal of condition 3 of planning permission 11/00601/FUL (Retention of groundworks and development of a 1500sqm private manege) which restricts the use of the manege to those persons residing at Maerfield Gate Farm and at no time as a commercial enterprise.

Application reference number **14/00413/FUL** is for the removal of condition 10 of planning permission 11/00599/FUL (for the retention of ground works for the formation of a concrete base and the erection of a timber frame building) which states that no horses other than those owned by the applicant or the owner of Maerfield Gate Farm shall be kept within the building and at no time shall the building be used as a commercial livery.

The application site is partially located within the Maer Conservation Area and to its full extent is within a Landscape Maintenance Area as specified on the Local Development Framework Proposals Map. There are also protected trees in the vicinity.

The application has been 'called in' to the Planning Committee due to concerns regarding harm to highway safety and the commercial use of the site.

**The 8 week period for the determination of both applications expires on the 28<sup>th</sup> July 2014.**

**RECOMMENDATION**

**A. Refuse both application reference 14/00412/FUL and 14/00413/FUL for the following reasons:**

**1. The proposed access to the A51 Stone Road is geometrically substandard in that the access is of insufficient width to accommodate vehicular movements associated with a commercial livery and the entry radii on the access are insufficient to accommodate the swept path of all types of vehicles which would require access to the proposed commercial livery.**

**2. The traffic generated by the proposed development would be likely to result in an increase in highway danger owing to increased use of the existing access which affords restricted visibility for drivers emerging from the access and or for drivers of vehicles travelling on the A51 Stone Road.**

**B. The Head of Central Services, if satisfied that there is sufficient evidence that a breach of conditions has taken place, be authorised to issue a breach of conditions notice 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 compliance with the conditions of the permission which restrict the use of the building and manege to the applicant and the owner of Maerfield Gate Farm.**

**Reason for Recommendation**

The applications made to remove conditions in order to allow commercial activity will lead to an increased use of a substandard access which will be harmful to highway safety. In addition if there is sufficient evidence of a breach of such conditions it is expedient to take enforcement action.

**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 applicant has been made aware of highway safety concerns which have not been satisfactorily addressed by the application made.

**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)

Policy ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP2: Historic Environment  
Policy CSP4: Natural Assets

Newcastle under Lyme Local Plan 2011

Policy N19: Areas of Landscape Maintenance  
Policy N17: Landscape character – general considerations  
Policy T16: Development – General Parking Requirements  
Policy T18: Development – Servicing Requirements  
Policy N12: Development and the Protection of Trees  
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

**Other Material Considerations**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Supplementary Planning Documents/Guidance

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

Relevant Planning History

11/00599/FUL	Retention of groundworks, formation of concrete oversite base and erection of a timber frame building	Refused
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*Allowed following an appeal*

11/00601/FUL	Retention of groundworks and development of a 1500sqm private manege.	Refused
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*Allowed following an appeal*

**Views of Consultees**

**Maer & Aston Parish Council** maintain their objections made in 2011 to planning application 11/00599/FUL which relate to an adverse highway safety impact from use of the access point.

Although the speed limit on the stretch of A51 outside Maerfield Gate Farm has been reduced to 50 miles per hour there have been a number of road safety incidents which have occurred which generate concern. In particular the Parish Council is concerned about the number of



horses exiting from the access point onto the A51. They comment that there is commercial equestrian activity taking place on the site contrary to the conditions imposed.

They also point out that in 2010 Severn Trent Water Ltd were prevented from using this same access point onto the A51 for two vehicle movements per annum in order to upgrade the Maer Village sewage system under a planning application determined by Staffordshire County Council. Severn Trent Water Ltd were required, due to highway safety detriment, to create an alternative access point onto the road into the village of Maer.

The **Highway Authority** recommend refusal of the application on the following grounds:-

1. The proposed access to the A51 Stone Road is geometrically substandard in that:
  - the access is of insufficient width to accommodate vehicular movements associated with a commercial livery;
  - the entry radii on the access are insufficient to accommodate the swept path of all types of vehicles which would require access to the proposed commercial livery.
2. The traffic generated by the proposed development would be likely to result in an increase in highway danger owing to increased use of the existing access which affords restricted visibility for:
  - drivers emerging from the access and or;
  - for drivers of vehicles travelling on the A51 Stone Road.

The **Environmental Health Division** has not provided any comments by the due date of the 30<sup>th</sup> June therefore it is assumed they have no objections.

#### Representations

- 2 letters of representation have been received objecting to the applications on the basis that:
- The use of the access is not safe due to restricted visibility and also due.
  - Damage to protected trees is occurring from horse grazing.
  - Horse riding is occurring on the footway through Hill Chorlton.
  - Electric fences marking the boundary where horses are kept makes it difficult for members of public to use public footpaths.
  - Staffordshire County Council determined that Severn Trent Water were required to create a new access to Maer village rather than using the access subject to the current applications due to highway safety concerns.
  - The conditions restricting commercial activity using the manege and buildings should be maintained.
  - The impact the Maer Conservation Area should be given special consideration.

#### Applicant/agent's submission

Plans, application forms and a Design and Access Statement have been submitted. These documents are available for inspection at the Guildhall and via the following link

#### **Key Issues**

The applicant proposes the removal of the conditions in order to provide a full livery service business for customers. In the absence of any significant conservation area or wider landscape impact the sole key issue to consider is:

1. Whether or not the removal of the conditions specified will cause significant harm to existing highway safety levels if approved?

Whether or not the removal of the conditions specified will cause significant harm to existing highway safety levels if approved?

The most up to date planning policy indicates that development should only be prevented or refused on transport grounds where residual cumulative impact of development are severe.

Access to the site is via an existing private driveway off Stone Road (the A51).

Stone Road has been subject to a change in speed limit from 60 mph to 50mph since the and timber framed building and manege were allowed at appeal. The Highway Authority acknowledges this change in circumstance in giving their advice; however they remain concerned that use of the access for commercial purposes will have a detrimental impact on highway safety.

Their detailed comments also acknowledge that a speed survey of vehicles using Stone Road could be undertaken as a basis to propose specific alterations to the access (which may or may not achieve an acceptable level of visibility and turning facilities in and out of the site). However there is no basis for approval based on the current access arrangement where public safety would be at risk from a significant increased use for the reasons outlined by the Highway Authority.

In conclusion the removal of the conditions would be harmful to interests of maintaining highway safety and the applications should be refused.

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

There have been allegations in the past that the conditions of the permission were being breached, however no evidence was found to support such allegations. Recently, however, evidence has been obtained that horses not owned by the applicant or owner of Maerfield Gate Farm are being kept within the building and it is very likely that these horses are also being exercised in the manege.

If the Committee's decision is to accept the recommendation and to refuse the application it is considered appropriate, in the circumstances, for the Committee to also address the issue of the expediency of enforcement action. Your Officer considers that for the reasons of highway safety as set out above it is expedient to take enforcement action.

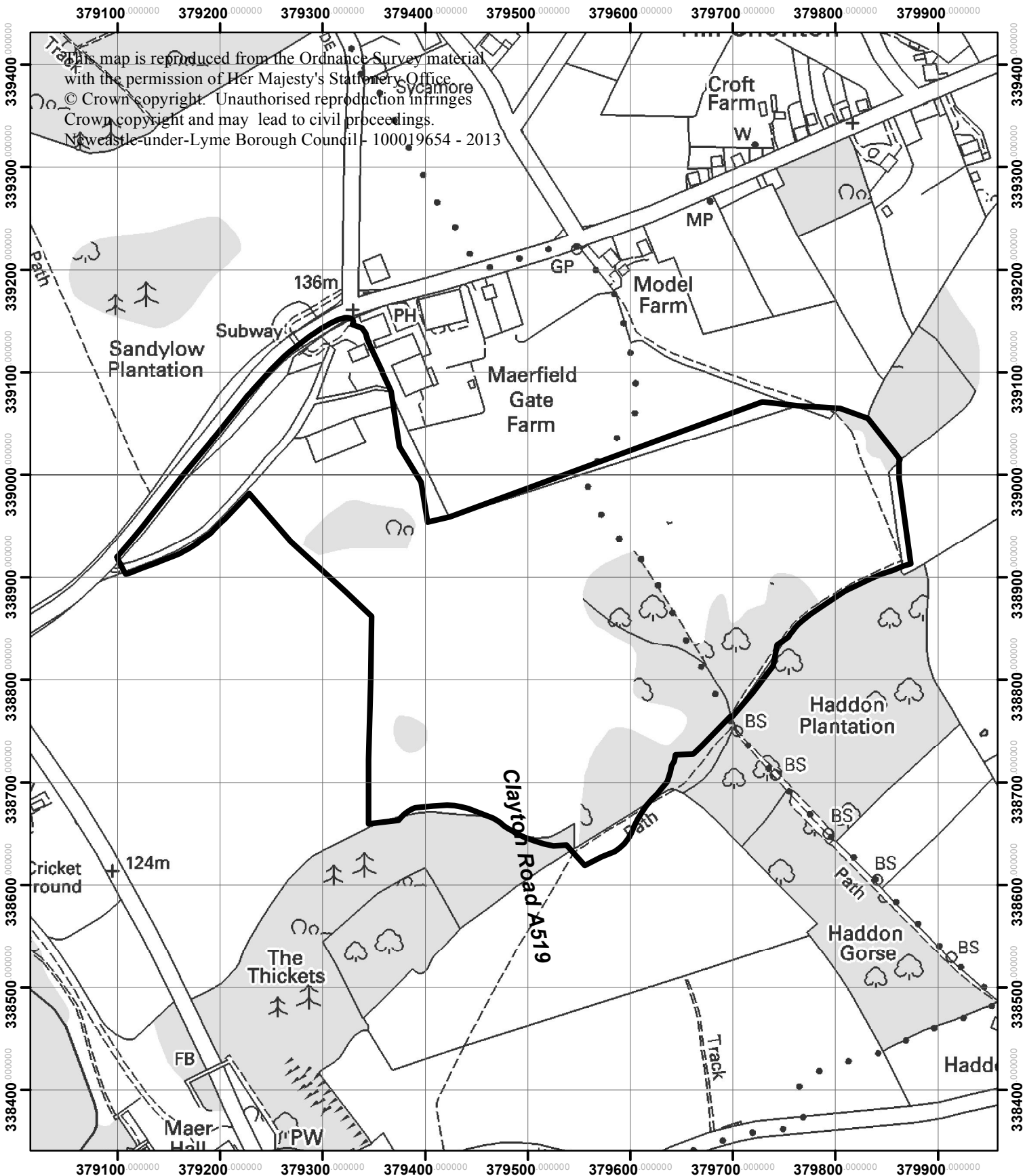
**Background Papers**

Planning File  
Planning Documents referred to

**Date Report Prepared**

3 July 2014

Maerfield Gate Farm Stone Rd, Blackbrook  
 14/00412/FUL & 14/00413/FUL



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CLAYTON SPORTS CENTRE, STAFFORD AVENUE, NEWCASTLE  
NEWCASTLE & HARTSHILL CC

14/00212/COU

The application is for the retention of the change of use of an existing car park to a CBT motor cycle training area. No buildings or permanent facilities are proposed and the operating hours are detailed as "daytime only" at other times the car park is available for the parking of vehicles

The application site is located within the urban area of Clayton but this area is designated as being within the North Staffordshire Green Belt and a Landscape Maintenance area (Policy N19), as indicated on the Local Development Framework Proposals Map.

The application was deferred at the 24<sup>th</sup> June 2014 planning committee to enable discussions between all parties to agree a new description of development and to agree a specific area of the car park to be used and the hours of operation.

**The 8 week period for the determination of this application expired on the 22<sup>nd</sup> May 2014.**

## **RECOMMENDATION**

**Permit subject the following conditions;**

**i) Hours of operation**

## **Reason for Recommendation**

The change of use is considered to represent inappropriate development within the Green Belt because it does not fall within one of the exceptions detailed within the NPPF. The use does not harm the openness of the Green Belt and any minimal harm arising could be controlled through the use of conditions and would be outweighed by the sustainable nature of the dual use which is considered to represent the very special circumstances required. Subject to a restriction on the hours of operation there would be a minimal impact on highways safety and the amenity of the area.

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

This is 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 this decision:-**

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

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Newcastle Under Lyme Local Plan 2011(NLP)

Policy S3: Development in the Green Belt

Policy N17: Landscape character – general considerations

Policy N19: Area of Landscape Maintenance

Policy T16: Development – General Parking Requirements

## **Other Material Considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Relevant Planning History

None relevant

#### Views of Consultees

The **Highways Authority** raises no objections subject to a condition that the use shall not operate during the times that a cricket match is being played at the site.

The **Environmental Health Division** raise no objections subject to a condition restricting the hours of use from 8am to 6pm on weekdays and no operation on weekends and bank holidays.

#### Representations

No letters of representation have been received.

#### Applicant/agent's submission

A location plan has been submitted with the application site red edged. The application details can be viewed at the Guild Hall or by using the following link [www.newcastle-staffs.gov.uk/planning/1400212COU](http://www.newcastle-staffs.gov.uk/planning/1400212COU)

#### **KEY ISSUES**

The application is for the retention of the change of use of an existing car park to a CBT motor cycle training area. No buildings or permanent facilities are proposed and the operating hours are detailed as "daytime only" with the car park being available for the parking of vehicles at other times. However concerns have been expressed about the possible conflict of this use with the car parking arrangements for Clayton Sports Centre. Therefore discussions are due to take place with all parties to address this concern.

The application site is located within the urban area of Clayton but this area is designated as being within the North Staffordshire Green Belt and a landscape maintenance area, as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of the application are:

- Is the proposal appropriate development within the Green Belt?
- Parking and the impact on highways safety,
- the impact on the amenity of the area, and
- if not appropriate do the required very special circumstances exist?

#### **Appropriate development within the Green Belt?**

Paragraph 79 of the 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, at paragraphs 89 and 90, indicates that new buildings and other forms of development are classed as inappropriate development other than in a number of identified exceptions. The application is for the change of use of land only and no new buildings or permanent equipment is proposed. Changes of use of land do not fall within one of these exceptions and so the development has to be considered to represent inappropriate development within the Green Belt and should not be approved except in very special circumstances.

#### **Parking and the impact on highways safety**

The change of use has already taken place and the existing car park is being used as a CBT motorcycle training centre. The application site currently operates as a dual use as a car park and now the motorcycle training use. The application form detailed that the motorcycle training use is operating outside the hours that the sports centre and cricket club operate. However, this is not the case.

The borough council lease the car park to the cricket club who sub-let the car park area to the CBT motorcycle training use. Concerns have been expressed about the description of development and the hours of use of the CBT motorcycle training use preventing users of the sports centre from parking on the car park during the day. Therefore to avoid any highway safety implications a meeting between all parties is due to take place to discuss what restrictions could be imposed to ensure that the car park is available for the parking of vehicles when required and to enable the motorcycle training use to continue. This is likely to involve restrictions on hours of operation and possibly restrictions on the area of the car park which can be used for the training. Further information in this regard will be reported following the meeting.

#### The impact on the amenity of the area

The use of the car park for motorcycle training has the potential to cause increased noise disturbance to the amenity of the area. In this regard EHD has detailed that a complaint was made to the Environmental Health Department in 2009 regarding noise from the activity but do not highlight any since that time. They indicate that the residential premises upon Stafford Avenue and Lilleshall Avenue are screened from the car park by the sports centre however there is a direct line of site to residential premises upon Clayton Lane and Cambridge Court and as such noisy activity on the site could adversely affect the occupiers of such premises. They therefore, recommend a condition restricting the hours of operation to 8am to 6pm Monday to Friday with no operation at weekends (including bank holidays). In the circumstances this is considered reasonable and appropriate.

#### Do the required very special circumstances exist

The NPPF details that very special circumstances 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 use of the car park as a motor cycle training centre has no greater harm on the openness than the use of the car park for the sports centre and cricket club. The dual use would represent a more efficient and therefore sustainable form of development and this is deemed to represent the very special circumstances as it would outweigh the minimal harm arising from the use.

#### **Background Papers**

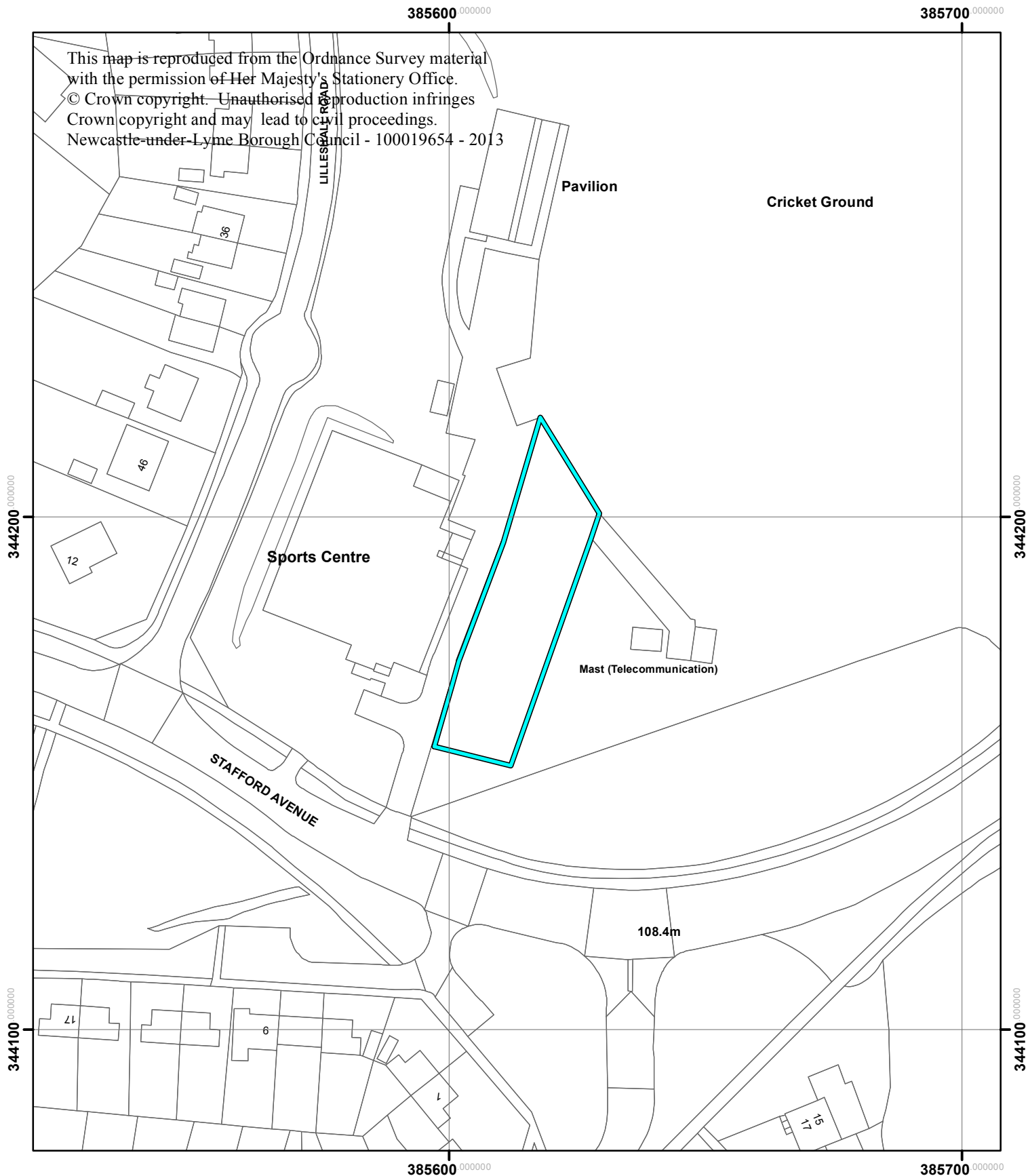
Planning File referred to  
Planning Documents referred to

#### **Date report prepared**

1<sup>st</sup> July 2014

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**NEW HOUSE FARM, ACTON LANE, ACTON  
M & B DEAVILLE & SONS**

**14/00260/FUL**

The application is for change of use of land to provide a natural burial ground and associated operational development including the creation of an informal car parking area.

The application site measures 0.80 hectares and is located within the Green Belt and a Landscape Enhancement Area as specified on the Local Development Framework Proposals Map.

**The 8 week period for the determination of this application expired on the 5<sup>th</sup> June 2014.**

**RECOMMENDATION**

**Permit subject to conditions relating to:**

- 1. Time limit.**
- 2. Approved plans.**
- 3. Prior approval and provision of visibility splays.**
- 4. Parking turning access, passing place, parking, servicing and turning area being provided in accordance with the submitted details.**
- 5. Surfacing of the access drive.**
- 6. No lighting.**
- 7. No funeral services shall be held at the site.**
- 8. All burials shall be positioned at acceptable distances from Controlled Waters in accordance with the recommendations of the Environment Agency.**

**Reason for Recommendation**

Although the proposal is for inappropriate development in the Green Belt it is considered that there are very special circumstances to justify approval. Taking into account there is no significant impact on openness, the absence of any demonstrable harm to the visual appearance of the area and also the benefits attached to supporting farming diversification the harm attributed to the inappropriateness of the development is outweighed. The proposed use would not result in a highway safety concern.

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

Initial highway safety concerns have been addressed through the submission of additional information by the applicant's agent. This is 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 this decision:-**

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

Policy ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality

Newcastle under Lyme Local Plan 2011

Policy S3: Development in the Green Belt  
Policy N20: Areas of Landscape Enhancement  
Policy N17: Landscape character – general considerations  
Policy T16: Development – General Parking Requirements

Policy T18: Development – Servicing Requirements

### **Other Material Considerations**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Supplementary Planning Documents/Guidance

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

### **Relevant Planning History**

None considered relevant.

### **Views of Consultees**

**Environmental Health Division** – no objections subject to:-

- No lighting being provided without the consent of the Planning Authority.

**Lead Local Flood Authority (Staffordshire County Council)** – no objections.

**Whitmore Parish Council** – strongly object to the proposal on the basis of highway safety harm arising due to the narrowness of Acton Lane which is not wide enough to allow two vehicles to pass and is used by vehicles cutting through between Bent Lane and Trentham Road as well as horse riders.

They also note that if permission is granted request that the following conditions are applied:-

- No buildings erected to support the burial site.
- No Services held on/at the site.
- Grave markers are to be laid horizontal, flush with the ground.
- The designated parking area be 'informal' and limited to a maximum of 22 cars.
- Any future plans to expand the site shall be required to pass through a further planning application.

**Highway Authority** – Following receipt of further information satisfying previous concerns have no objections subject to the following conditions:-

- Approval in writing of visibility splays at the access junction and subsequent implantation.
- Provision of access, passing place, parking, servicing and turning areas provided in accordance with the submitted details.
- Before the development is brought into use the access drive shall be surfaced and maintained in a bound and porous material for a minimum distance of 7 metres.

**Environment Agency** – have no objections subject to condition that all burials are at an appropriate distance away from controlled waters.

**Landscape Development Section** – no comments have been received by the due date so it is assumed the section has no objections.

### **Representations**

7 letters of objection/concern have been received raising the following:-

- The additional traffic created and the narrowness of Acton Lane and existing roads will cause highway safety problems for other vehicle users, pedestrians and horse riders.
- The site is within the Green Belt were the proposal should not be supported.
- Once the use is established further buildings and car parking areas would be difficult to resist which will impact upon the character of the landscape.

- If minded approve a condition should be impose prohibiting burials at weekends and on holiday, and restricting the hours of burials to 9am to 5pm.

#### Applicant/agent's submission

Plans, application forms and a Design and Access Statement have been submitted. These documents are available for inspection at the Guildhall and via the following link

[www.newcastle-staffs.gov.uk/planning/1400260FUL](http://www.newcastle-staffs.gov.uk/planning/1400260FUL)

#### **Key Issues**

The application is for the change of use of land to provide a natural burial ground and associated car parking area. The parking area proposed is informal with no hard surfacing or markings – kept as a grassed area. An existing post and wire fence is to be kept around the periphery of the site and a new post and rail fence will separate the parking area from the remainder of the site. The site measures 0.80 hectares.

The site is currently an agricultural field within an existing farmstead. The applicant proposes to diversify their operations in order to assist with the viability of the farmstead. The application material states that the natural burial ground would not accommodate funeral services which would be held elsewhere prior to a burial occurring. For this reason no buildings facilities are proposed. Graves are to be marked with a low key marker likely to be in the form of a wooden peg or a small plaque laid flush to the ground. Between burials the site would otherwise continue to be used for sheep grazing.

The key issues to consider are:

1. Is the development appropriate in Green Belt terms and if not are there any very special circumstances to justify approval?
2. Is this an acceptable use within the open countryside?
3. Is the impact to the character and appearance of the landscape acceptable?
4. Is the impact to highway safety levels acceptable?

#### The appropriateness of the development in Green Belt terms

The National Planning Policy Framework (NPPF) represents the most up to date policy with respect to Green Belt considerations. Development which is appropriate within Green Belts is defined at paragraphs 89 and 90 of the NPPF. The change of use proposed falls outside of the scope of appropriate forms of development listed. The presence of any very special circumstances therefore needs to be demonstrated which is considered at the end of the report.

#### Is this an acceptable use within the open countryside?

Policy ASP6 states that the Council will take a positive approach towards rural enterprise which amongst other considerations includes the opportunity towards the sensitive and sustainable diversification of traditional rural economies. Paragraph 28 of the NPPF also promotes the development and diversification of agricultural and other land based rural businesses. This is a proposal is a farming diversification.

Whilst the site is not considered to be in a sustainable location, being in the rural area with limited choices of modes of transport available, it is considered that the location of the site in all other respects does lend itself very well to the broad principle of a natural burial ground use in that it is secluded and makes use of an existing driveway access point. On that basis it is considered that this is an acceptable use within the open countryside.

#### Is the impact to the character and appearance of the landscape acceptable?

Policy CSP1 states that new development should be well designed to respect the character, identity and context of the area.

In terms of the landscape protection designation relevant to the site, saved Local Plan policies N17 and N20 advise that development which will harm the quality and character of the landscape will not be permitted. Within Landscape Conservation Areas particular regard will be paid to the siting, design, scale, materials and landscaping to ensure it is appropriate to the character of the area.

It is proposed that the individual burial plots would be marked with a wooden peg or plaque flush with the ground and would continue to be used for grazing. The car park is to be sited directly adjoining existing mature woodland that would screen views of the area from the public highway. It is not intended that the car parking area would be hard surfaced. It would not be in use all the time.

Overall the development would be unobtrusive in the landscape and it is considered that there is no visual determinant to consider which weighs against the proposal.

Is the impact to highway safety levels acceptable?

The most up to date planning policy indicates that development should only be prevented or refused on transport grounds where residual cumulative impact of development are severe. Access to the site is via an existing driveway to the farmstead off Acton Lane. The informal car parking area proposed can accommodate around 20 vehicles. The Highway Authority have assessed the proposal taking into account concerns relating to the free flow of traffic and pedestrian safety in the vicinity. Their conclusion is that there would not be an unacceptable impact to highway safety, subject to planning conditions. Whilst the concerns raised by residents are material it is considered that the response of the Highway Authority should be accepted and that a refusal of the proposal cannot be justified on highway safety grounds.

Are there any very special circumstances to justify approval?

The NPPF, at paragraph 87, states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At paragraph 88 it advises that when considering any planning application, local planning authorities are required to ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The NPPF indicates that the construction of new buildings that provide appropriate facilities for cemeteries is appropriate development in the Green Belt. The use of the land as a cemetery, or burial ground, is directly connected with the provision of such facilities. Given the recognition in the NPPF that buildings associated with such a use can be appropriate it would be unreasonable to not allow the change of use which does not impact on openness or conflict with the purposes of including land within the Green Belt. Overall in view of these factors there are very special circumstances to support approval of the development.

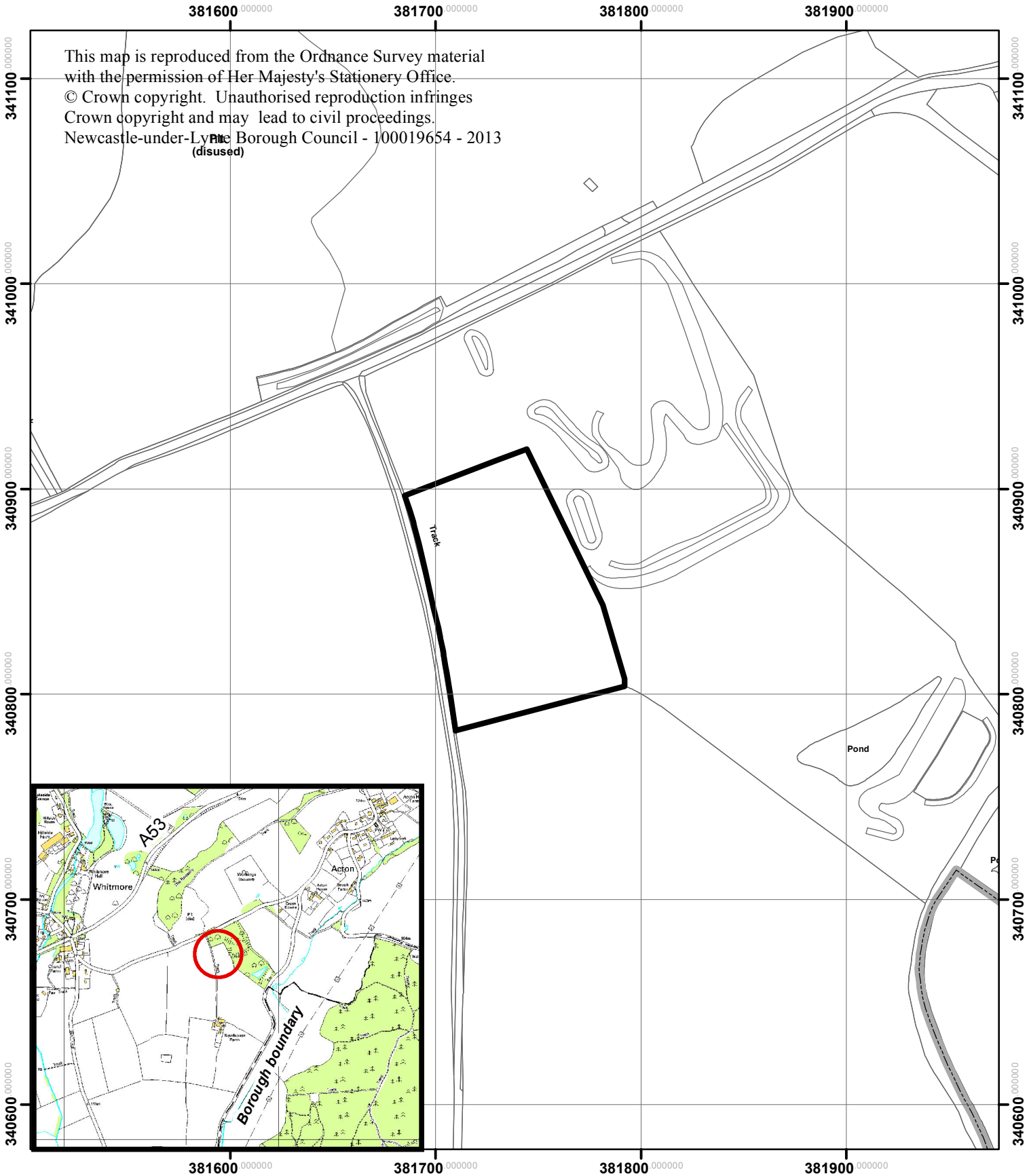
**Background Papers**

Planning File  
Planning Documents referred to

**Date Report Prepared**

1 July 2014

New House Farm, Acton Lane, Acton  
14/00260/FUL



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SHORFIELDS FARM NANTWICH ROAD AUDLEY  
MR STEHEN ADAMS

14/00267/FUL

The application is for full planning permission for the installation of Ground Mounted Solar PV Panels.

The site is within open countryside in areas of both Green Belt and Landscape Enhancement as defined on the Local Development Framework Proposals Map.

## **RECOMMENDATION**

**PERMIT** subject to conditions relating to:

- (i) Commencement of development.
- (ii) Approved plans.
- (iii) Prior approval of any additional external ancillary equipment.
- (iv) Removal of installation at the end of its working life

The statutory 8 week determination period expired on 10th June 2014.

## **Reason for Recommendation**

In assessing its siting and design it is considered that the installation would not materially harm the visual amenity of the area due to its acceptable height, design and location within the landscape. The proposal would therefore meet the guidance and requirements of the NPPF and it would also comply with policies. Furthermore, whilst the proposal is not considered to accord with the Development Plan insofar as it constitutes inappropriate development within the Green Belt it is considered that the proposal would meet sustainable development objectives and national policy guidance in terms of promoting sources of renewable energy in new development proposals. These benefits would outweigh the negligible harm to the openness of the Green Belt caused by the array of solar panels and would amount to the very special circumstances required to justify the development in this instance. There are no other material considerations of such weight as to justify refusal of this proposal. The development therefore complies with Policy N20 of the Newcastle under Lyme Local Plan 2011, Policies CSP1, CSP2 and CSP3 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006-2026, and the Aims and Objectives of the National Planning Policy Framework 2012.

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

This is 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 this decision:-**

### **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  
Policy CSP3: Sustainability and Climate Change

### **Newcastle Under Lyme Local Plan 2011**

Policy S3: Development in the Green Belt  
Policy N17: Landscape character – general considerations  
Policy N20: Area of Landscape Maintenance

## **Other Material Considerations**

### **Relevant National Policy Guidance:**

National Planning Policy Framework (2012)  
Planning Practice Guidance for Renewable and low Carbon Energy (July 2013)  
Department Energy and Climate Change: Photo-voltaic Roadmap (2013)  
Department Energy and Climate Change: Solar Energy Strategy (2014)

### **Relevant Planning History**

05/00743/FUL PERMIT	29.03.2006	Conversion of farm buildings into residential unit and bed and breakfast accommodation
05/00743/RED PERMIT	14.03.2006	Removal of Permitted Development Rights
10/00364/FUL PERMIT	26.08.2010	Erection of a 18.4 metre, 6Kw wind turbine
13/00630/EIA OPING	14.03.2006	Request for screening opinion regarding planning for the installation of a 50kW wind turbine application

### **Views of Consultees**

#### **Audley Parish Council**

Support.

#### **Environmental Health Division**

Consultation was made but no reply has been made by the due date, it is taken there is no objection.

### **Representations**

None.

### **Applicant/Agent's Submission**

A design and access statement has been submitted to support the planning application. A brief summary of the documents is as follows:-

- The Proposal is to install a 250 Kw ground mounted solar PV system.
- The installation will be unconcreted C-section piles, mounting frames and 1,000 solar panels.
- The installation would occupy no more than 2,900 square metres along the hedge line, minimizing the impact, with the majority of the field continuing in its present use.
- At the end of the installations life it can be removed by simply pulling the piles out of the ground without any excavation.
- The applicant has reviewed alternative installation sites, such as on the farm building roofs but they were deemed unsuitable due to insufficient size, and roof orientation.

The documents are available to view online or at the Guildhall using the "Track an application" facility on [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk)

### **Key Issues**

The application seeks planning permission for the installation of Ground Mounted Solar PV Panels. It does not include any means of enclosure or security measures. The site is located within the Green Belt, and a Landscape Maintenance Area as defined by the Local Development Framework Proposals Map.

The main issues are considered to be:-

- the appropriateness or otherwise of the development in the Green Belt;
- the impact of the proposal on the landscape quality;
- Other Issues, and

- should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

### **The appropriateness or otherwise of the development in the Green Belt**

The National Planning Policy Framework outlines the general presumption against development in the Green Belt and restricts development within the Green Belt with only some types of development being considered “appropriate”. Development includes engineering and other operations, and the making of any material change in the use of land. The carrying out of such operations are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt.

Paragraph 91 states: ‘when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the Green Belt’. The proposed development consists of the installation of 1,000 ground based photovoltaic solar panels covering a ground area of approximately 2,900 square metres in a single strip along a hedge line. The development falls within the category of an engineering operation on the land. The extensive ground covered, and general design of the development is considered to represent inappropriate development within the Green Belt, that would not maintain openness. Therefore, there is a requirement to demonstrate that there are very special circumstances that would outweigh the harm to the openness of the Green Belt.

### **The impact of the proposal on the landscape quality**

The location of the proposed solar panels is near the side of an established field. There is a mature hedge including trees along the side of the field, and the landscape is undulating with the installation well away from the top of the slope and skyline. The installation would only be visible to the public from three locations: Nantwich Road near the Wagon & Horses public house, the public pathway across the field between the wagon and horses and the installation and the drive into the farm. From the viewing distance the panels would form only a very small proportion of the landscape and would not materially detract from it. It is considered that the formation and the siting of the solar panels will not harm the character and appearance of the landscape.

The site lies within an Area of Landscape Enhancement which is covered by policy N20 of the local plan. The proposal would only have a limited impact on the landscape for the same reasons outlined above.

### **Other Issues**

National Policy around photo-voltaic installations is currently undergoing a period of change culminating in the recent issue of the Solar Energy Strategy on 4<sup>th</sup> April 2014. The focus of this is the opening up of deployment of solar installations on the roofs of commercial, industrial and large public buildings. The current application obviously does not fall into any of these categories of site, the applicant does though state that installation on farm roofs had been considered but found unsuitable. In a recent Appeal Case (SCS200-002-170 Pl.p20 20.6.2014) the Inspector found that such a cursory search was inadequate and a realistic search and to be made for alternative sites. However the present application is not caught by these developments because:

- The application was received by the Council only 8 days after the publication of the strategy, the applicant has to be permitted reasonable time to prepare an application; and
- Much of the energy produced is to be used within the farm itself, location of the panels on the farm is therefore materially valid.

The application does not include any means of enclosure or security measures, groundworks or concrete foundations so the impact of the development will not go beyond the panels. These will be mounted on poles that can be pulled out of the ground when the installation ceases to be used. The installation will accordingly have a low impact compared to others of a similar nature.

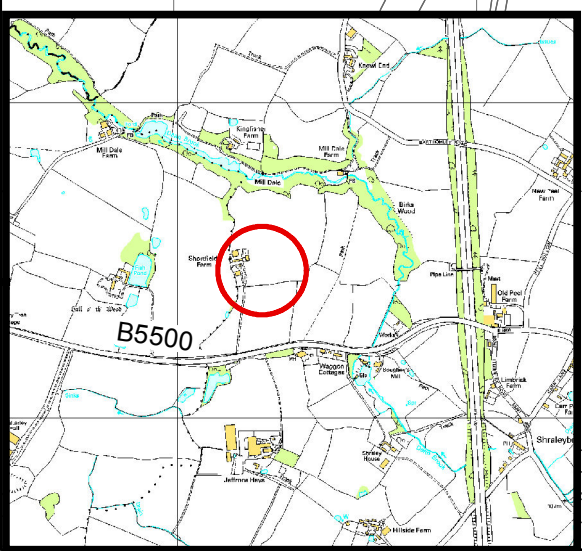
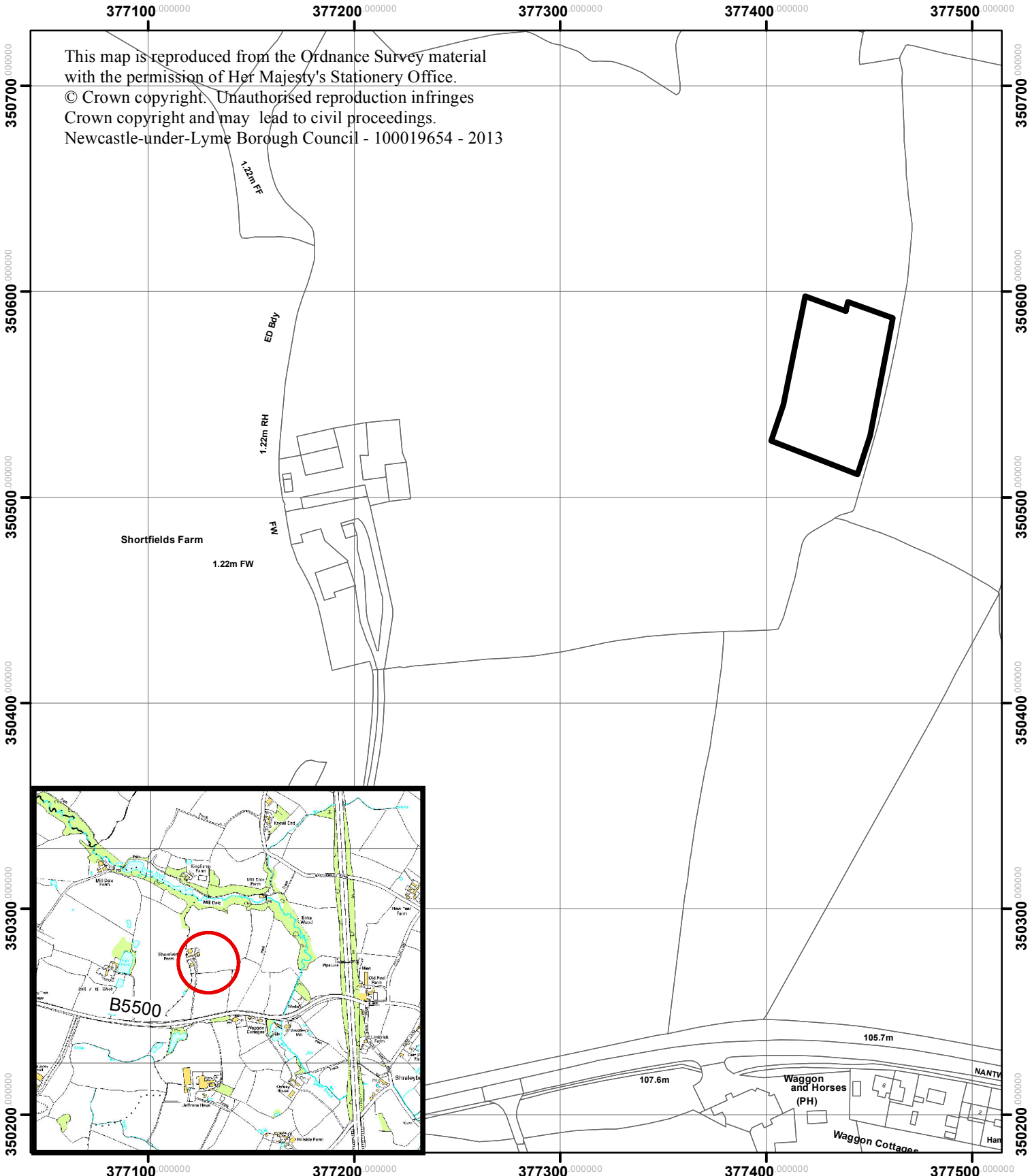
**Do the required very special circumstances exist?**

The decision maker is required, in the case of inappropriate development, to consider whether there are material considerations which clearly outweigh any harm both to the Green Belt and any other interests to be acknowledged. Inappropriate development is by definition harmful to the interests of the Green Belt.

The NPPF Paragraph 7 sets out the environmental dimension of sustainable development including minimising pollution, mitigating and adapting to the effects of climate change, including moving to a low carbon economy. The wider environmental and economic benefits of all renewable energy projects, whatever their scale, are material considerations should accordingly be given significant weight. In terms of a Green Belt location Paragraph 91 recognises that many renewable energy schemes in Green Belts will comprise inappropriate development so developers need to demonstrate that very special circumstances. Such very Special Circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

In this case it is considered that the comparatively appropriate design of the proposal, the limited views from any main vantage points, and in particular the extensive renewable energy benefits the proposal would generate, would amount to the very special circumstances required which outweigh the negligible harm to the openness of the Green Belt in accordance with NPPF.

Background Papers  
Planning File  
Planning Documents referred to  
Date Report Prepared  
30 June 2014



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LAND AT DODDLESPOOL, MAIN ROAD, BETLEY

13/00056/207C2

The purpose of this report is to enable the Planning Committee to consider the question of whether enforcement action should be taken with respect to a breach of planning control consisting of engineering works in the form of the construction of a pool and the formation of an access track along with the depositing and removal of soil on and from the land. Industrial skips, fuel tank, machinery and a portakabin are also being stored on the land.

The site lies within the North Staffordshire Green Belt, within the Rural Area, and within an Area of Active Landscape Conservation all as indicated on the Local Development Framework Proposals Map.

The breach was first identified in March 2013. It has been brought to the Committee at the request of a ward councillor on the grounds that there is considerable public concern about the operations being undertaken at the site. The councillor has made further representations which are reported below.

## RECOMMENDATION

**A) Subject to the applicant submitting a full planning application by the 15<sup>th</sup> July 2014 for the engineering works in the form of the construction of a pool, the formation of an access track and the depositing and removal of soil the Council should take no action at this time.**

**B) Should a full planning application not be received and having regard to the provisions of the development plan and to all other material considerations, the Head of Central 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 for the following;**

- a. **Removal of the industrial skips, fuel tank, machinery and a portakabin within one month from the date of the notice, and**
- b. **Restrictions on the vehicle movements to and from the site (details of which will be reported) to limit the impact on highway safety and residential amenity levels.**
- c. **All activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas shall cease after a period of no more than 3 years.**
- d. **No soil shall be imported onto the site**

## Reason for recommendation and the taking of enforcement action

The applicant has indicated that a full planning application will be submitted in the near future but one has not been submitted to date. There has been a breach of planning control in the form of the formation of the track and pool which are considered to represent appropriate development within the Green Belt that would not harm the openness of the Green Belt and preserve and enhance the appearance of the landscape. It is therefore not expedient to take enforcement action for these engineering operations due to them complying with policies of the development plan and the guidance and requirements of the NPPF. The soil mounds do not have an adverse impact on the character and quality of the landscape but the associated vehicle movements are uncontrolled and the frequency of the movements are having an adverse impact on the residential amenity of neighbouring residential properties. In accordance with the NPPF it is likely that suitably worded conditions would mitigate this impact. However, the breaches of planning control in the form of the storage of industrial skips and the siting of a fuel storage tank, machinery and a portakabin comprise inappropriate development within the Green Belt that would have an adverse harm on the openness of the Green Belt and the character and quality of the landscape. The required very special circumstances justifying inappropriate development in the Green Belt do not exist and the storage and siting is Policies ASP6, CSP1 and CSP4 of the Core Spatial Strategy, Policies S3 and N18 of the Local Plan and the guidance and requirements of the NPPF. It is not considered that conditions could address these

concerns so the appropriate requirement is to seek the removal of the industrial skips, fuel storage tank, machinery and portakabin. The period for compliance indicated is appropriate having regard to the practicalities of relocation.

**Policies and proposals in the approved development plan relevant to this decision:-**

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

Policy ASP6: Rural area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt  
Policy T16: Development – General Parking Requirements  
Policy N17: Landscape Character – General Considerations  
Policy N18: Areas of Active Landscape Conservation

**Other Material Considerations include:**

National Planning Policy

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

Supplementary Planning Guidance/Documents

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

**Relevant Planning History**

10/00704/AGR          Erection of a building for storage of machinery          Deemed Permitted

**Views of Consultees**

The **Environmental Health Division** have detailed that the hours of operation should be limited to Mon to Fri 7am to 6pm, Sat 7am to 1pm, no work on Sundays/Bank Holidays. Dust mitigation measures could include resurfacing of road surfaces (and maintenance), speed limit, surface conditioning, visual monitoring and/or dust measurement with action plan to deal with dust emission events. Noise mitigation could include vehicle selection, speed restriction, road resurfacing and maintenance, traffic control measures, screening of sensitive premises. Prevention of mud deposition could include appropriate road surfacing, road cleaning regime (on and off site), monitoring programme regarding road conditions.

**Representations**

A representation has been received from the **ward councillor** who details the following key points;

- Mr. Oulton, in conjunction with Frizells carried out extensive earthworks at Doddlespool Farm. This has involved creation of a roadway across the farmland and the excavation of a large hole.
- An Environment Agency Certificate of Exemption covered the activity. The alleged reason was to improve the drainage.
- During the operation large quantities of hardcore were brought onto site and large quantities of topsoil were removed and sold.
- The work ceased in December 2013, but has now commenced again.



- This is not an enhancement of agricultural land. It is an industrial business involving the importation of inert waste and the sale of topsoil.
- The operator claims that railway ballast is now being dumped. Clean railway ballast has a commodity value, unclean railway ballast will contaminate the land.
- The site is within the green belt, and an Area of active landscape conservation (N18).
- Good agricultural land is being destroyed and an area of Landscape Conservation wrecked.
- Residential properties are adjacent to the site entrance, and the residents have endured noise, dust and vibration for the duration of this industrial operation.
- Highway safety is compromised.
- The noise of the excavations can be heard at Betley Common, some 800 metres away.
- Some 50 vehicles a day operated mainly by one contractor are travelling through Betley.
- There are two rights of way issues. There is no indication of the right of way route through the site and the right of way leading to the site from Old Hall Betley is completely blocked by vegetation.
- The Planning Authority should issue an enforcement notice on the site. This should require activity to cease. Issues include export of top soil, importation of waste and effect on N18 land.
- Mr. Oulton should be requested to produce his business plan and proposals for the site.

### **Background Information**

The site and operations being undertaken have been under investigation by Development Management officers and officers of the Councils Environmental Protection section since March 2013 following receipt of a complaint. Site visits and discussions have been on going with the owner since this time. The County Council as the minerals and waste planning authority have also been investigating the operations on the site, as have the Environment Agency.

Whilst the development that is being undertaken involves the importation of waste material, the County Council have concluded it is not a waste operation, which is a matter for them to address, but an engineering operation for the Borough Council to deal with.

The owner has been informed by Development Management Officers that whilst permitted development rights exist, under Class A, of Part 6 to Schedule 2 of the General Permitted Development Order for engineering works, the works have already been carried out without a prior approval application being received by the authority for a determination as to whether the prior approval of the authority will be required to the siting of the excavation or deposit of the material. As a consequence of not submitting a prior approval application such permitted development rights cannot be exercised. Therefore the owner has been advised that full planning permission is required and an application invited for the excavation of the pool, the depositing of soil on the land and the formation of the track.

A further site visit was undertaken on the 25<sup>th</sup> June 2014 to observe the current situation of the operations. During this site visit a number of industrial skips were observed along with a raised portakabin type of building, fuel storage tank and earthmover.

A Planning Contravention Notice (PCN) has not been served on the owner to date but it is now considered appropriate to do so enable the Council to establish a number of key points, including the long term plan for the existing operations.

The owner has since contacted the Council and a meeting arranged to discuss the requirements of a full planning application with the view to submitting this in the near future. The meeting is arranged for the 8<sup>th</sup> July 2014 at the Civic Offices with the owner and a representative.

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

The breach of planning control consists of engineering works in the form of the construction of a pool, the formation of an access track and the depositing of soil on the land. Industrial skips, fuel storage tank, machinery and a portakabin type building are also being stored on the land. In deciding whether it is expedient to take enforcement action, the Local Planning Authority (LPA) is required to have regard to the provisions of the approved development plan for the area, which are detailed above, and

to any other material considerations. This approach is supported by the recently published National Planning Practice Guidance (2014).

Paragraph 207 of the National Planning Policy Framework details that *“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*

As with planning applications if a LPA gives consideration to immaterial considerations that opens the LPA to the complaint that its decision to take enforcement action is not well-founded. A decision to take enforcement action must not be based on irrational factors; or taken without consideration of the relevant facts and planning issues; or based on non-planning grounds.

The decisive issue is always whether the alleged breach of planning control is unacceptably affecting public amenity or the existing use of land or buildings meriting protection in the public interest. It could never be that a planning application has not been submitted, The Committee should not take into account the decision of the owner not to apply for planning permission, but rather they should concentrate on coming to a view as to whether the development is unacceptable or not in planning terms. In effect the Committee should consider the matter as if it had before it an application for planning permission – a so called “deemed planning application”.

This means that if the Committee were to come to the view that the development is acceptable then it should not authorise the issue of an Enforcement Notice, even though no planning application has been made to the Authority.

Alternatively if the Committee were to come to the view that the development can be made acceptable by the imposition of conditions the Committee should authorise the issue of an Enforcement Notice but only one which, by reason of the steps that it requires the offender to take, in effect grants a conditional planning permission for the development.

Finally if the Committee were to come to the view that the development is unacceptable on planning grounds and cannot be made acceptable by the attachment of conditions only then should it authorise the issue of an Enforcement Notice requiring the cessation of the use.

### **The issues to be considered**

The site is within the North Staffordshire Green Belt, the Rural Area and within an Area of Active Landscape Conservation, as indicated on the Local Development Framework Proposals Map. In considering this ‘deemed planning application’, the main issues for consideration are as follows:

- Is the use appropriate or inappropriate development in Green Belt terms?
- Is there any conflict with policies on development in the countryside and the impact of development on the landscape?
- Is there any adverse impact on highway safety?
- Are there any issues regarding impact on residential amenity?
- If inappropriate development in Green Belt terms, do the required very special circumstances exist to justify acceptance of the use?

### **Is the use appropriate or inappropriate development in Green Belt terms?**

The site is located within the Green Belt. In these locations the 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, at paragraphs 89 and 90, indicates that new buildings and other forms of development are classed as inappropriate development other than a number of identified exceptions. Exceptions include;

- buildings for agriculture and forestry (para 89),
- mineral extraction; and
- engineering operations;

Paragraphs 87 and 88 detail that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The formation of an access track and pool are classed as engineering operations. The owner has detailed verbally that the main purpose of the works is for the operation of the agricultural unit with the pool forming part of an irrigation system. The irrigation system would assist the owner's potato crop. The track way would enable vehicles to manoeuvre around the agricultural unit

The owner has provided no written submission which would have supported any full planning application. Therefore no justification, other than his verbal comments, is available for consideration. However, having visited the site on a number of occasions officers have no reason to doubt that the engineering operations are not for the functioning of the agricultural unit and the formation of the track and pool do not adversely harm the openness of the Green Belt.

The mounds of soil are as result of the pool being excavated and are being exported off site. The owner details that there is enough volume of soil to result in exportation for a further three to four years depending on demand. These soil mounds are not considered to harm the openness of the Green Belt.

The engineering works that have been undertaken are considered to constitute appropriate development in the Green Belt. The storage of industrial skips, fuel storage tank, machinery and the portakabin are not included within one of the exceptions and are considered to represent inappropriate development within the Green Belt, however.

Is there any conflict with policies on development within the countryside and the impact of development on the landscape?

The site is within an Area of Active Conservation and NLP Policy N18 states that "Within these areas the Council will support, subject to other plan policies, proposals that will help to conserve the high quality and distinctive character of the area's landscape. Development that will harm the quality and character of the landscape will not be permitted. Within these areas particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area."

The track appears typical of what would be expected on an agricultural unit. The track is very informal in appearance and is considered to have a minimal impact on the character and quality of the landscape. Many agricultural units have concrete tracks which are of a more permanent construction and appearance which would have a greater impact on the appearance of the landscape. Such a track has not been constructed in this case and due to its length this would not be recommended in this instance.

The formation of the pool has been done in an appropriate manner is acceptable in appearance and enhances the landscape. The pool has been formed to overcome drainage problems of the land and is required to support a proposed irrigation system for the potato crop that is a primary use of the agricultural business.

A result of the excavation of the pool is the amount of soil deposited around it. The volume of soil is not known and a PCN would seek to establish this. Whilst this has some impact on the landscape it is a temporary feature and on balance it is not considered that it would significantly harm the appearance of the landscape to warrant action to secure its removal as there are minimal views from any main vantage points. Notwithstanding this it does appear that waste is being brought onto the site and this should be prevented. The County Council are also investigating this activity further.

The portakabin, fuel storage tank and skips do not conserve the appearance of the landscape and are contrary to policy N18 of the local plan, policies of the CSS and the guidance and requirements of the NPPF. These should be removed from site.

Is there any adverse impact on highway safety?

The site is an established agricultural unit with access onto the A531.

Complaints have been expressed regarding the amount of vehicles accessing and egressing the site due to the importing and exporting of materials. The ward councillor, in his submission, has detailed that there is no regular sweeping of the road by the contractor, there are no notices advising of site entrance/vehicles turning and some 50 vehicles a day operated mainly by one contractor are travelling through Betley.

There is however no indication that the site is causing a significant highway safety concern and any impact could be controlled to mitigate any significant impact on highways safety.

Are there any issues regarding impact on residential amenity?

As discussed this is an established agricultural unit with access onto the A531. The nearest residential properties are adjacent to the access and the main complaints are regarding the amount of vehicles using the access and the disturbance caused by these vehicles in terms of noise and dust. The access remains largely unmade.

The amount of vehicles is largely down to the importation and exportation of waste following the formation of the track and the excavated soil.

The owner has detailed that the importation of waste has occurred for the hardstandings created and the track. Officers are satisfied that these are required primarily for agricultural purposes. The owner has detailed that further material may be required and this could involve a further period of 2/3 weeks.

The exportation of soil has been as a result of the amount of earth excavated for the pool that has been created. The removal of top soil is an operation that generally requires planning permission but would have been considered as part of the wider engineering operations of the site that is now under consideration.

The volume of soil remaining on site is not known but the owner has detailed that the exportation could take 3/ 4 years depending on demand. This is a concern and measures to minimise the impact on neighbouring properties in terms of noise and dust are being monitored and addressed by the Environmental Protection Division to ensure that they are effective. Further measures such as the control over the amount of movements per day but it is hard to assess what would be an acceptable level of such movements in terms of the impact on the residential amenity of neighbouring properties. The comments of Environmental Health Division have been received with mitigation measures advised. The required mitigation measures should be a requirement of any enforcement notice. No soil should be imported on to the site.

If inappropriate development in Green Belt terms, do the required very special circumstances exist to justify approval?

As referred to above, the storage of skips/ fuel tank and siting of the portakabin represent inappropriate development in the Green Belt. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The development does not maintain the openness of the Green Belt and conflicts with at least one of the purposes of including land in Green Belts, namely that of assisting in safeguarding the countryside from encroachment. Furthermore, as referred to above, the storage of the industrial skips, fuel tank and siting of the portakabin is harmful to the visual amenities of the Green Belt and the countryside by reason of its appearance.

Mr Oulton has provided no justification for the storage of the industrial skips and siting of the portakabin and it is considered that the very special circumstances exist to outweigh the harm identified above.

#### Conclusion

The formation of the track and pool are considered to meet local and national planning policy guidance but the storage of industrial skips, fuel tank and the siting of the portakabin has a harmful impact on the openness of the Green Belt and landscape and should be removed. The soil removal and importation is having an adverse impact on the residential amenity of neighbouring residential properties and should be controlled to minimise this impact and that of highways safety.

#### **Date report prepared**

03 July 2014

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**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**15<sup>th</sup> July 2014**

**Agenda item 15**

**Application ref: 13/00056/207C2**

**Land at Doddlespool, Main Road, Betley**

Since the preparation of the agenda report a meeting has been held between officers and the owner. The applicant has detailed the following:-

- The amount of hardcore that has been imported onto the site to date is likely to be approximately 5000 tonnes which amounts to 250 lorry loads.
- A further 1000/ 2000 tonnes (approximately 100 lorry loads) is required to complete a hardstanding required as part of the irrigation pumping system for the agricultural business.
- The constructed pool has resulted in approximately 9000 tonnes of material being excavated.
- 4000 tonnes of soil has been exported off the site to date with a further 5000 tonnes remaining (250 lorry loads).

The applicant has suggested that the following restrictions could be imposed to minimise the impact on residential amenity levels;

- Hours of operation – 8am to 4pm weekdays only
- Appropriate surfacing for the start of the track next to neighbouring dwellings
- Road sweeping already being undertaken weekly
- Number of vehicles restricted daily (but this is not ideal).

The applicant still maintains that he wishes and is prepared to submit a planning application to regularise the breach of planning control. However, this will not be received by the 15<sup>th</sup> July 2014.

**Your officers' comments**

The owner has demonstrated a willingness to submit a planning application to regularise the unauthorised development and to accept controls over the development. The recommendation in the main agenda report was challenging (with respect to the date of submission) and following the meeting it is considered that a new date (for submission of the application) of the 31<sup>st</sup> July 2014 is now appropriate (to allow time for the preparation of the required plans and volume and vehicle movement calculations).

The applicant details that all hardcore importation onto the site will be completed by the end of August 2014. As indicated in the main report your officers are satisfied that this importation is necessary for the agricultural use of the site.

It is considered that the restriction on the hours of operation would be appropriate and would meet the guidance for conditions as detailed in paragraph 206 of the NPPF. Similarly the requirement to undertake the sweeping of Main Road is also considered an appropriate matter to address through condition. Limiting the number of vehicles per day in that it simply extends the period of time over which the operation will take place is accordingly not recommended.

The surfacing of the section of the trackway close to the residential properties may be appropriate but by addressing the existing issue of noise and vibration from lorries hitting pot holes an issue of speeding vehicles could however be created if the trackway is surfaced more appropriately.

It has been agreed by the owner that the industrial skips, portacabin and fuel tank will be removed by the 11<sup>th</sup> July 2014. The owner has detailed that the machinery is not permanently left on the site due to security issues.

**RECOMMENDATION (A), as set out within the main agenda report requires amendment and now reads as follows**

**(A) Subject to**

- 1) the industrial skips, portacabin and fuel tank having been removed (and not brought back)**
- 2) the owner submitting a full planning application by the 31st July 2014 for the engineering works in the form of the construction of a pool, the formation of an access track and the depositing and removal of soil, and**
- 3) appropriate restrictions as detailed above (relating to hours of operation, road sweeping) being complied with from now on up to the determination of the application,**

**the Council should take no formal action at this time.**

**Recommendation B as set out within the main agenda report requires amendment and now reads as follows**

**Should**

- 1) either a full planning application not be received by 31<sup>st</sup> July 2014**
- 2) or the industrial skips, portacabin and fuel tank either not have been removed or be brought back onto the site, or**
- 3) the interim restrictions detailed in 3) above not be complied with**

**having regard to the provisions of the development plan and to all other material considerations, the Head of Central 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 for the following;**

- a. Removal of the industrial skips, fuel tank, machinery and a portacabin within one month from the date of the notice, and**
- b. Appropriate restrictions on the vehicle movements to and from the site to limit the impact on highway safety and residential amenity levels.**
- c. All activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas shall cease after a period of no more than 3 years.**
- d. No soil shall be imported onto the site**



**ADVANCE SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**15<sup>th</sup> July 2014**

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- The amount of hardcore that has been imported onto the site to date is likely to be approximately 5000 tonnes which amounts to 250 lorry loads.
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The applicant has suggested that the following restrictions could be imposed to minimise the impact on residential amenity levels;

- Hours of operation – 8am to 4pm weekdays only
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