

# Public Document Pack

**Date of meeting** Tuesday, 26th August, 2014  
**Time** 7.00 pm  
**Venue** Council Chamber, Civic Offices, Merrial Street,  
Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact** Julia Cleary

## Planning Committee

### AGENDA

#### PART 1 – OPEN AGENDA

- 1 DECLARATIONS OF INTEREST**  
To receive Declarations of Interest from Members on items included on the agenda.
- 2 MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 8)  
To receive the minutes of the previous meeting.
- 3 Application for Major Development - CARDWAY BUSINESS PARK, LINLEY LANE, ALSAGER; CARDWAY LTD/KNIGHTS LLP; 348/213** (Pages 9 - 14)
- 4 Application for Minor Development - LAND REAR OF 24 to 36 HEATHCOTE ROAD, MILES GREEN; MR KEV RYDER; 14/00533/FUL** (Pages 15 - 22)
- 5 Application for Other Development - GRASS VERGE ADJACENT TO THE SQUARE, PILKINGTON AVENUE; VODAFONE LTD; 14/00566/TDET** (Pages 23 - 28)
- 6 Application for Other Development - 27 IRON MARKET; MR LINH/W JONES; 14/00456/FUL** (Pages 29 - 36)
- 7 Appeal and Costs Decision - Maerfield Gate Farm; 14/00011/FUL** (Pages 37 - 38)
- 8 Quarter 1 Report on Exercise of Authority to Extend Period of Time When Section 106 Obligations Can Be Entered Into** (Pages 39 - 46)
- 9 URGENT BUSINESS**  
To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

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

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

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

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

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

**PLANNING COMMITTEE**

Tuesday, 5th August, 2014

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

Councillors Mrs Bates, D Becket, Braithwaite, Cooper, Mrs Hambleton,  
Mrs Heesom, Northcott, Proctor, Miss Reddish, Waring, White  
and Williams

**1. APOLOGIES**

There were no apologies.

**2. DECLARATIONS OF INTEREST**

Cllr Braithwaite declared an interest in item 6 on the agenda.  
Cllr Waring declared an interest in item 5 on the agenda.  
Cllr Becket declared an interest in item 15 on the agenda,

**3. MINUTES OF PREVIOUS MEETING**

**Resolved:** That the minutes of the previous meeting be agreed as a correct record.

**4. APPLICATION FOR MAJOR DEVELOPMENT - TUDOR HOUSE, MAIN ROAD, BETLEY; DR PAULA RICHARDS; 14/00355/FUL & 14/00356/LBC**

**Resolved:**

- a) That the application 14/00355/FUL be permitted subject to a condition identifying the approved plans.
- b) That consent be granted for application 14/00356/LBC subject to a condition identifying the approved plans

**5. APPLICATION FOR MAJOR DEVELOPMENT - 27 HARDINGSWOOD ROAD, KIDSGROVE; MRS KATY STANWAY; 14/00453/FUL**

Cllr Robinson Spoke in favour of the application.

**Resolved:**

That the application be refused as demolition of the building would be detrimental to the overall character and appearance of the Trent and Mersey Canal Conservation, would not result in any public benefit and it had not been demonstrated that the building was incapable of beneficial use. As such the application was contrary to policy.

**6. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF PEPPER STREET, KEELE; KEELE HOME LTD; 13/00970/OUT**

Cllr Naylor addressed the committee and objected to the application.

An update was provided by the Council's Environmental Health Officer who stated that Environmental Health was satisfied that concerns could be addressed through conditions.

Cllr Cooper Proposed the recommendation and Cllr Stringer seconded the proposal. A vote was taken with 6 in favour, 4 against 2 abstentions.

**Resolved:**

Subject to the applicant entering into a Section 106 obligation by 5th October 2014 to require:-

1. A contribution towards school spaces of £364,627 and the sum being able to be adjusted should the development as built be for less than the full 100 units;
2. 15% Affordable Housing provision;
3. The entering into of a Management agreement to secure the long term maintenance of the public open space and any play equipment provided to meet the needs of the residential development, and the maintenance of any boundary treatment to prevent access to the landfill site;
4. A Travel Plan monitoring fee of £6,500;
5. A financial bond (the precise amount to be agreed) to be held by the council to be used to fund the works necessary to complete the process of extinguishing the fire and reinstating that part of the site affected by such works should the developer fail to do so following commencement of such works; and
6. That a financial viability reappraisal be undertaken if the development has not been substantially commenced within 18 months, from the grant of this outline planning permission and appropriate adjustments be made, on the basis of such reappraisal(s) to the level of affordable housing with a cap of 25% and a floor of the level of affordable housing referred to in 2) above;

That the application be permitted subject to the following conditions:

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) with the residential development being contained within the area shown and being restricted to 100 dwellings maximum.
4. Reserved matter submission to include full details of cycle/pedestrian links.
5. 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.
6. 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.
7. 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.

8. 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 Master Plan if it is intended that this area will be accessible to the occupiers of the development and the wider public.
9. Area identified as public open space shall be fenced off in accordance with approved details and access prevented unless the contaminated land conditions have been satisfied.
10. Japanese Knotweed
11. Construction Management Plan and restriction on the hours of construction.
12. No impact piling on any part of the site.
13. No external lighting without prior approval.
14. Notwithstanding the details shown on the submitted access 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. Access visibility splays to be maintained clear of obstruction.
16. 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.
17. 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.
18. Prior approval and implementation of a Travel Plan.
19. Closure of existing accesses that are made redundant as a result of this development.
20. Development shall not be commenced until such time as a scheme to limit the surface water run-off has been agreed.
21. 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.
22. Contaminated land conditions.
23. 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.
24. 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.
25. 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
26. 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.
27. 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.
28. Submission of existing and finished levels.
29. Retained trees and root protection areas shown on a proposed layout plan.
30. Arboricultural Impact Assessment in accordance with BS5837:2012

31. Dimensioned tree protection plans in accordance with BS5837:2012
32. Schedule of works to retained trees
33. Arboricultural method statement in accordance with BS5837:2012
34. Full hard and soft landscaping proposals based upon principles identified in the Landscape and Visual Impact Assessment
35. Full landscape maintenance schedules.
36. All recommendations contained within the submitted ecological surveys to be complied with.
37. Prior approval and implementation of a written scheme of archaeological investigation of the buildings to be demolished.

**B.** Failing completion by 5th October 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, secure effective monitoring of the Travel Plan, 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.

7. **APPLICATION FOR MINOR DEVELOPMENT - MINTON STREET/HIGH STREET, WOLSTANTON; VODAFONE LTD, 14/00480/TDET**

**Resolved:** That prior approval is not required.

8. **APPLICATION FOR MINOR DEVELOPMENT - TRANSMISSION STATION, CAMP HILL, BALDWINS GATE; TELEFONICA & VODAFONE LTD; 14/00507TDET**

**Resolved:** That prior approval is not required.

9. **APPLICATION FOR OTHER DEVELOPMENT - CAR PARK, SCHOOL STREET; NEWCASTLE UNDER LYME BOROUGH COUNCIL; 14/00418/DEEM3**

**Resolved:** That the application be approved subject to a condition identifying the approved plans.

10. **APPLICATION FOR OTHER DEVELOPMENT - CAR PARK, GOOSE STREET; NEWCASTLE UNDER LYME BOROUGH COUNCIL; 14/00420/DEEM**

**Resolved:** That the application be approved subject to a condition identifying the approved plans.

11. **APPEAL DECISION - 10 CASTLE WALK, NEWCASTLE UNDER LYME, HERON FOODS LTD; 13/00977/FUL**

**Resolved:** That the decision be noted.

12. **APPEAL DECISION - GARAGE SITE, 82-88 HARRISEAHEAD LANE; ASPIRE GROUP; 13/00714/FUL**

**Resolved:** That the decision be noted.

13. **APPEAL DECISION - GRANGE FARM, SCHOOL LANE, ONNELEY; MR & MRS CORNES; 13/00739/FUL**

**Resolved:** That the decision be noted.

14. **OPEN ENFORCEMENT CASES**

**Resolved:**

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

15. **QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED.**

**Resolved:** That the information be received.

16. **DISCLOSURE OF EXEMPT INFORMATION**

**Resolved:** That the public be excluded.

17. **QUARTERLY ENFORCEMENT REPORT - RESTRICTED APPENDIX**

**Resolved:**

- a) That the information be received.
- b) That Council Officers liaise with the ward councillors concerned regarding the item referred to in the appendix prior to the next quarterly enforcement report.
- c) That all information, including that received from ward councillors be included in the next quarter report.
- d) That a decision be made at that meeting whether to continue to provide a quarterly report on this item or to update members only on an annual basis

18. **APPEAL IN RELATION TO LAND TO THE REAR OF GATEWAY AVENUE, BALDWINS GATE; 13/00426/OUT**

Cllr Loades outlined his concerns regarding the application and requested that the Committee take them into consideration when making its decision.

Members re-emphasised their concerns in relation to the highways and that this reason for refusal remain.

**Resolved:** That subject to the Council's consultant ensuring that in the Statement of Common Ground it is agreed by both parties that appropriate conditions with respect to drainage are recommended to the Inspector, the Council should no longer defend reason for refusal No.7 and should offer no evidence in support of that particular reason for refusal at the appeal.

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



CARDWAY BUSINESS PARK, LINLEY LANE, ALSAGER

CARDWAY LIMITED

CHESHIRE EAST REF 13/4081C (NULBC REF 348/213)

The Borough Council has been consulted by Cheshire East Council on an application for outline planning permission for major residential development.

This 4.61 hectare site is located in the southern part of Alsager within the urban boundary. The current uses on the site are the Cardway Cartons factory, an associated aggregates storage yard and an area of scrubland that is protected as open space within the adopted Congleton Borough Local Plan. Cardway Cartons are due to relocate elsewhere in Cheshire East, leaving this site vacant.

This outline planning application is for the construction of up to 110 residential dwellings.

For the Borough Council's comments to be taken into account by Cheshire East Council in their decision, they must be received by them by 27<sup>th</sup> August 2014.

## **RECOMMENDATION**

That Cheshire East Council be advised that the Borough Council has NO OBJECTIONS to the application.

## **Reason for Recommendation**

Your officers consider that the development of 110 dwellings in this location will not have a significant impact on Newcastle-under-Lyme Borough. It would be in line with the submitted Cheshire East Local Plan and it can be considered against existing local planning policies within the adopted Congleton Borough Local Plan and the National Planning Policy Framework (NPPF).

## **Material Considerations relevant to this recommendation:-**

### Congleton Borough Local Plan Review (2005)

- Policy PS3: Settlement Hierarchy
- Policy PS4: Towns
- Policy GR1: New Development
- Policy GR6: Amenity and Health
- Policy GR9: New Development (Accessibility, Servicing and Parking Provision)
- Policy GR10: New Development (Accessibility, Servicing and Parking Provision)
- Policy GR18: Traffic Generation
- Policy GR19: Infrastructure
- Policy GR20: Public Utilities
- Policy GR22: Open Space Provision
- Policy NR1: Trees and Woodlands
- Policy E10: Re-use or Redevelopment of Existing Employment Sites
- Policy H1: Provision of New Housing Development
- Policy H2: Provision of New Housing Development
- Policy H4: Residential Development in Towns
- Policy H13: Affordable and Low-Cost Housing
- Policy RC2: Protected Areas of Open Space

## Cheshire East Local Plan

Cheshire East Local Plan Strategy: Submission version submitted to the Secretary of State for Communities and Local Government on 20 May 2014.

## National Planning Policy

National Planning Policy Framework (March 2012)

## Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026

Policy SP1: Spatial Principles of Targeted Regeneration

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

## **KEY ISSUES**

The Borough Council has been consulted by Cheshire East Council on this outline proposal, which would involve the demolition of the existing industrial units on Cardway Business Park and redevelopment of the site to accommodate up to 110 new dwellings.

The site falls within the urban boundary of Alsager as defined by the 'settlement zone' on the Congleton Borough Local Plan Proposals Map. This is a location where development is viewed favourably under policies PS3 and PS4 of the Congleton Borough Local Plan. The same settlement zone boundary for this part of Alsager is proposed to be carried forward in to the Cheshire East Local Plan. Policy PG6 of the Cheshire East Local Plan Strategy Submission Document proposes that 1,600 new homes are to be accommodated within Alsager in the period up to 2030.

The Cardway Business Park and the nearby Twyford's site to the north are both proposed to be allocated for the development of 550 new homes under CS12 of the new Local Plan. Most of the Twyford's site already has approval for 335 dwellings under planning application 11/4109C and there is an additional area of land in this northern part that could accommodate any additional capacity from CS12 that is left over should this current planning application be approved.

The Borough Council has submitted representations jointly with Stoke-on-Trent City Council on the Cheshire East Local Plan Strategy Submission Document and these were presented to Planning Committee on 22<sup>nd</sup> April 2014. The representations did not object to proposed site allocation CS12, however they did object to the calculation of future windfall development which is likely to drive the housing requirement in the new plan beyond the high growth figure of 29,128 new dwellings. The resulting high growth could undermine regeneration programmes in north Staffordshire and could also see speculative development undermining the site allocations proposed within Cheshire East.

In light of this, your officers believe that the redevelopment of this site, which is in accordance with proposed allocation CS12 for residential use, is preferable to speculative residential development taking place elsewhere in Cheshire East and should therefore be supported.

An additional consideration for Newcastle-Under-Lyme would be the loss of the businesses in this location which may be providing employment opportunities for local residents within the Borough. Policy E10 of the Congleton Borough Local Plan aims to restrict the redevelopment of existing employment sites to other uses, unless it can be shown that the employment use is no longer suitable or that there would be substantial benefit in permitting

alternative uses. Policy EG3 of the Cheshire East Local Plan Strategy Submission Document reiterates this by stating that existing employment uses are to be protected unless they are no longer suitable or viable and there is no potential for modernisation, alternative use or occupation from other employment industries.

The existing businesses on Cardway Business Park are due to relocate to more suitable premises elsewhere within the next five years. Whilst no new location has been identified within the submitted planning application documents, the Planning Statement does state that this will be a 'more suitable site in Cheshire East'. It is therefore not possible at present to determine whether or not the relocation of the existing business on the site would have a detrimental or beneficial impact on Newcastle-Under-Lyme Borough. This will however also be a key issue for Cheshire East to consider in determining this planning application, as employment opportunities in Alsager and nearby areas would also be similarly affected should the business relocate further afield.

### **Background Papers**

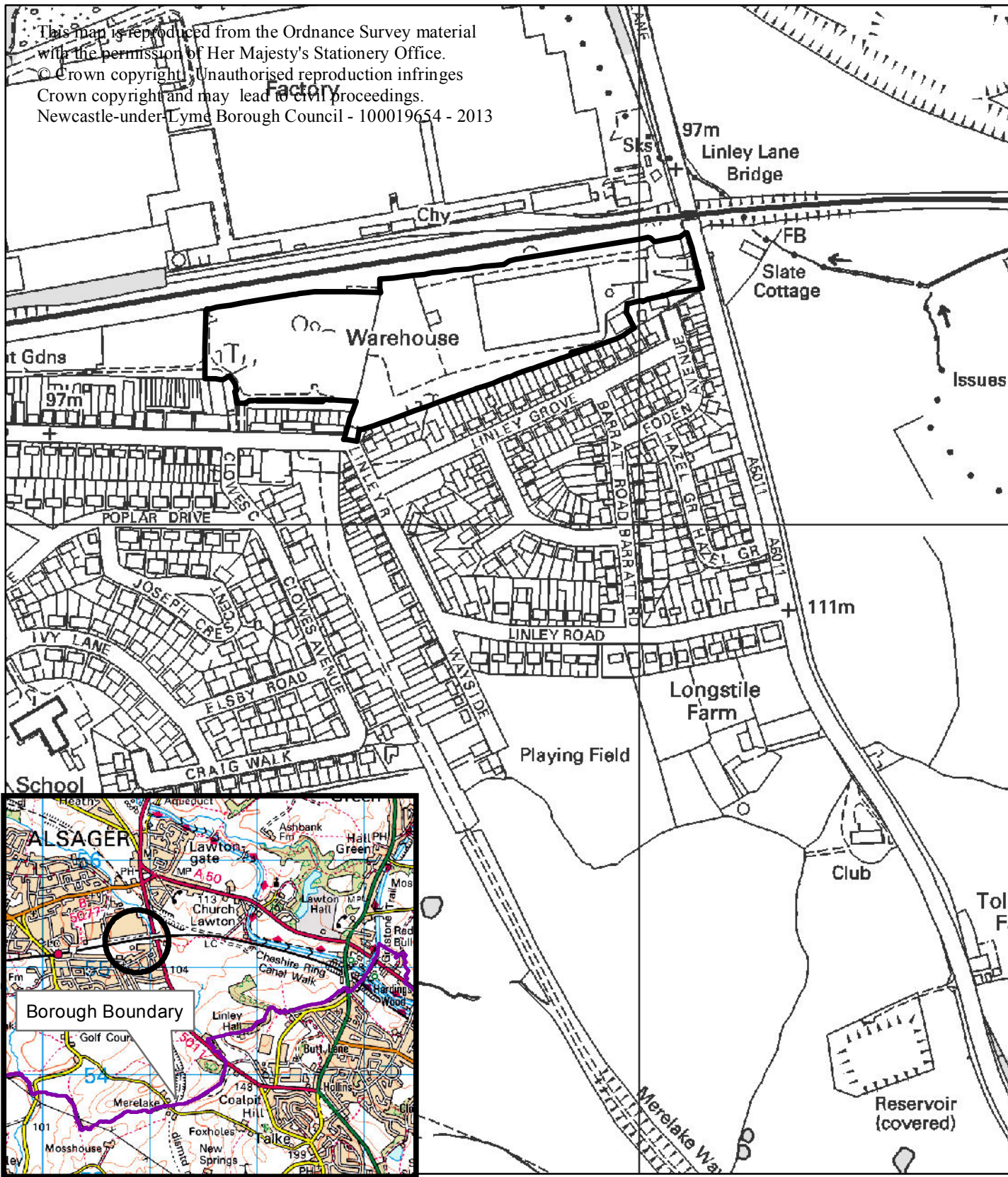
- National Planning Policy Framework
- Cheshire East Council Local Plan Submission Development Plan Document
- Joint letter to Cheshire East Council 16/11/13 re: Local Plan Strategy Pre-Submission version.
- Joint letter to Cheshire East Council 25/04/14 re: Local Plan Strategy Submission version.
- Report to Planning Committee on 22<sup>nd</sup> July 2014; "Cheshire East Local Plan Strategy"
- Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (2009)

### **Date report prepared**

13<sup>th</sup> August 2014

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Cardway Business Park, Linley Lane, Alsager  
 348/213  
 (CE reference 13/408C)



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**LAND REAR OF 24 – 36 HEATHCOTE ROAD MILES GREEN  
MILWOOD LTD**

**14/00533/FUL**

The application is for full permission for the erection of 4 detached bungalows with vehicular access off Heathcote Road.

The site is outside but immediately adjacent to the village envelope of Miles Green, but not within the Green Belt or an area with a specific landscape designation.

The application has been called to Committee for decision by two Councillors due to it being in the public interest.

**The statutory 8 week period for the determination of this application expires on 2<sup>nd</sup> September 2014.**

**RECOMMENDATION**

**PERMIT subject to the following conditions:**

- 1. Standard Time limit**
- 2. Approved plans/drawings/documents**
- 3. Approval of all external facing and roofing materials**
- 4. Details of all boundary treatments**
- 5. Details of all surfacing materials**
- 6. Landscaping scheme**
- 7. Tree protection measures**
- 8. Development is undertaken in accordance with the recommendation of the Tree Quality Survey and Development Implications**
- 9. Provision of details relating the reconstruction of the site access**
- 10. Approval of proposed access surfacing materials**
- 11. Provision of the parking and turning areas**
- 12. Restricted use of the proposed garages**
- 13. Approval of any gates being proposed**
- 14. Approval of private highway signage**
- 15. Provision of a Construction Method Statement**
- 16. Provision of surface water interceptor**
- 17. Provision of waste and recyclable materials storage and collection areas in accordance with approved plans**
- 18. Hours of construction restriction**
- 19. Report of unexpected contaminated land**
- 20. Prior approval of any importation of soil or waste**
- 21. Approval of details of surface and foul water disposal**
- 22. No build within a 3 metre buffer either side of public sewer**
- 23. No deep rooted trees./ shrubs to be planted within the vicinity of the public sewer**
- 24. No surfaced water to discharge into the combined sewer**
- 25. Approval of finished floor levels which shall be set at a minimum of 130.75 AOD**
- 26. The erection of temporary protective fencing along the edge of the river corridor buffer zone during the course of the construction**

**Reason for Recommendation**

The application, through a reduction in the number of proposed dwellings to four, no longer triggers the policy requirement to provide affordable housing and as such has addressed the reasons for refusal of application reference 14/00247/FUL. The development, provided appropriate conditions are included, would have an acceptable impact upon residential amenity, highway safety, waste management and drainage. The application is therefore considered to be a sustainable form of development which complies with Policies ASP6, CSP1, CSP3 and CSP6 of the Newcastle-under-

Lyme and Stoke-on-Trent Core Spatial Strategy 2006 -2026, Policy T16 of the Newcastle-under-Lyme Local Plan 2011, and the objectives of the National Planning Policy Framework.

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

Policy SP1:	Spatial Principles of Targeted Regeneration
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 CSP5:	Open Space/Sport/Recreation
Policy CSP6:	Affordable Housing

Newcastle under Lyme Local Plan 2011

Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements

**Other Material Considerations include:**

Relevant National Planning Policy

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

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: Space about Dwellings (July 2004)  
Newcastle-under-Lyme and Stoke on Trent Urban Design Guidance (adopted December 2010).

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

Relevant Planning History

99/00540/FUL	Refused	Residential Development (Appeal lodged and later withdrawn)
99/00759/FUL	Refused	Residential Development (Dismissed at appeal)
01/00073/FUL	Refused	Residential Development (Dismissed at appeal)
13/00956/FUL	Withdrawn	Erection of 6 no. bungalows
14/00081/FUL	Refused	Erection of 6 no. bungalows
14/00247/FUL	Refused	Erection of 6 no. bungalows

Views of Consultees

The **Highway Authority** has no objection subject to the conditions relating to the following:

- No development to commence until details of the reconstruction of the site access at the junction with Heathcote Road has been approved. The access is to be provided in accordance with the approved plans and retained for the life of the development.
- The development is not to be brought into use until surfacing details for the private road have been approved. The private road is to be surfaced in accordance with the approved details prior to any occupation.
- The development shall not be occupied until the access road, parking and turning areas are provided in accordance with the approved plans.



- The garages are to be retained for the parking of motor vehicles and cycles and shall at no time be converted to living accommodation.
- Any gates to the proposed access shall be sited in accordance with details that shall have been approved.
- Prior to first occupation of the dwellings a sign indicating a private road shall be erected at the junction with Heathcote Road and retained for the life of the development.
- Prior approval of a Construction Method Statement including details of a site compound; parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; and wheel wash facilities.
- Dwellings shall not be occupied until a surface water drainage interceptor, connected to a surface water outfall has been provided.

The **Waste Management Section** is happy with the proposed construction of a collection point, which is within an acceptable pull out distance for operatives, and is of an appropriate size to accommodate recycling containers and bins from the proposed properties for collection.

The **Environment Agency** has no objections in principle to the proposed development. They advise that given that the site is located within Flood Zone 1 and the site area equates to 0.36 hectares a site specific Flood Risk Assessment is not required. However given that there is an existing watercourse located along the southern boundary of the site a condition should be imposed requiring prior approval of the finished floor levels of the dwellings in order to mitigate against any risk of flooding associated with this watercourse. A further condition is recommended requiring the erection of temporary protective fencing along the edge of the river corridor buffer zone during the course of the construction.

**United Utilities** has no objections subject to conditions relating to the following:-

- No build within a 3 metre buffer either side of public sewer
- No deep rooted trees./ shrubs to be planted within the vicinity of the public sewer
- The site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the nearby water course.

The **Landscape Development Section** has no objection subject to conditions relating to the following:-

- All recommendations provided in the submitted information relating to trees are to be adhered to
- Tree Protection Plan
- Landscaping scheme.

The **Environmental Health Division** has not commented upon this application but has previously recommended conditions as follows:

- Construction Hours
- Prevention of mud and debris on the highway
- Reporting of unexpected contamination
- Importation of soil/material.

Staffordshire County Council as the **Education Authority** have previously advised given the proposal is a fewer than 7 dwellings no education contribution would be requested. In light of this comment they were not re-consulted on the current application.

The views of **Audley Parish Council** have been sought and if received will be reported.

### Representations

Two letters of objection has been received raising concerns relating to the following:-

- The design of the bungalows is out of keeping with the neighbourhood environment and the development would amount to serious 'cramming' in what is a low density area.

- The prestige development proposed does not meet the needs of the local small community with young families.
- The development overlooks and could be overlooked by the existing adjacent properties.
- Garden areas are very small.
- The development will be visible from the road and the public footpath to the rear.
- The bin collection point, near the entrance of the site would add to the unacceptable visual impact of the development and is inadequate in size.
- Lack of lighting is of concern from a safety and security perspective.
- The absence of a footpath is a highway safety concern, particularly when considering the need to transport waste to the collection point.
- The access is too narrow and has a blind bend and as such is unsafe.
- The proposal would introduce additional traffic and result in highway danger,
- There is no evidence to demonstrate that the requirements of the Environment Agency have been met.
- The residents would not be integrated into the community.
- Maintenance of the private road would not take place and would lead to conflict.
- The bin collection point is over the sewer.
- The development would have an adverse impact on wildlife and their habitats contrary to policy. A list of flora and fauna that have been observed on the site has been included and a copy of a letter from Staffordshire Badger Conservation Group (dated 17<sup>th</sup> March relating to application reference 14/00081/FUL) which indicates that they would contact the Council and advise that a full ecological survey is required (such a letter has not been received).

#### Applicants submission

The following documents have accompanied the application:-

- A Design and Access Statement
- Tree Quality Survey and Development Implications Review

All of these documents are available for inspection at the Guildhall and on [www.newcastle-staffs.gov.uk/planning/1400533FUL](http://www.newcastle-staffs.gov.uk/planning/1400533FUL)

#### **Key Issues**

The application site is a greenfield site which falls between the defined Miles Green village envelope and the Green Belt and Area of Landscape Restoration. The application is a resubmission following the refusal of planning application 14/00247/FUL on the grounds that the design of the affordable housing unit was visually distinguishable from the other dwellings on the site, and as such was contrary to policy.

The current application is again for full planning permission for detached bungalows; however the number of bungalows proposed in the current application has been reduced from 6 to 4 in total. Each bungalow is a different house type and, as with the previous applications, a single access is being proposed to the site from Heathcote Road.

There have been no material changes in planning policy or other material considerations relating to issues of the principle since the previous decision and as such the proposed residential development of this site requires no further consideration at this time and remains acceptable.

The access details are the same as the last application and given that the previous development of 6 dwellings was considered to be acceptable in respect of highway safety it would be unreasonable to reach a different conclusion in the absence of any material change in circumstances in respect of the current application which relates to 4 dwellings.

The bin collection point, in respect of its size and position, is as proposed in the last application and it is considered that it is acceptable for a development of 4 dwellings as currently proposed and it should be noted was considered to be acceptable for a development of 6 dwellings. Its location does not conflict with the requirements of United Utilities.

The proposed development in the last application was considered to be acceptable in respect of the design and the density of development. The reduction in the density of development that is currently proposed is not considered to be harmful to the character of the area nor is the design of the dwellings, which were included in the last application.

In light of the above it is considered that the key issues to address in the determination of the current application are as follows:

1. Has the reason for refusal of the previous application been addressed?
2. Is an acceptable level of amenity achieved within this revised development?

#### Has the reason for refusal of the previous application been addressed?

Policy CSP6 of the CSS states that within rural areas proposals for new residential development of 5 or more dwellings shall provide a contribution towards affordable housing. The current application is for a reduced number of dwellings and does not trigger the policy requirement to include affordable dwellings. No affordable housing units are proposed or can be required and as such the reason for refusal of the previous application has been satisfactorily addressed.

#### Residential Amenity

The previous two proposals were considered acceptable in respect of residential amenity however it remains necessary to assess the current proposal.

Policy CSP1 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy under the heading of Design Quality advises development should have public and private spaces that are safe, attractive, easily distinguished, accessible, and complement the built form (point 6).

Supplementary Planning Guidance (SPG) 'Space Around Dwellings' provides guidance on residential development including the need for privacy, daylight standards, and environmental considerations.

The adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document provides advice at R16 stating *Developments must provide some form of private or shared communal outdoor space, in the form of balconies, terraces and/or gardens for each dwelling. This space should be usable and should relate to the house type and occupiers.*

The separation distances that are achieved between the proposed and existing dwelling considerably exceeds that which is set out in the guidance contained within the SPG and are similar to that which were proposed in the previous application and which were found to be acceptable. In addition the garden areas more than double that which is recommended in the SPG. As such it is considered that the development provides an appropriate level of residential amenity to both existing adjacent occupiers and to future occupiers of the proposed development.

#### Background Papers

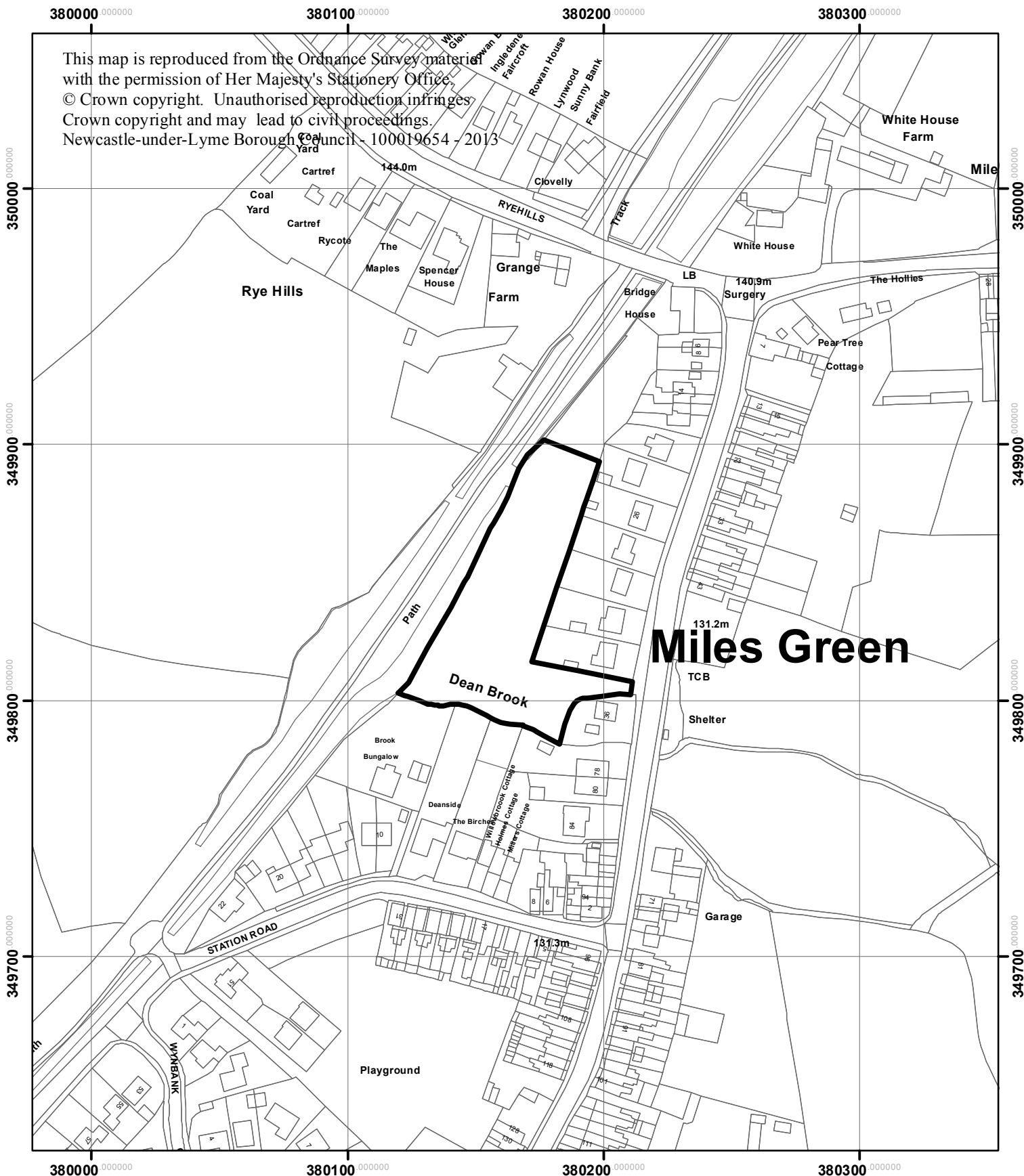
Planning File  
Development Plan

#### Date report prepared

13<sup>th</sup> August 2014

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# Land rear of 24 to 36 Heathcote Road, Miles Green 14/00533/FUL



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THE SQUARE, PILKINGTON AVENUE, WESTLANDS  
VODAFONE LTD

14/00566/TDET

The application is for a determination as to whether prior approval is required for the siting and appearance of a replacement 15 metre high monopole accommodating 3 antennae on the highway verge on The Square off Pilkington Avenue, to be used by Vodafone and O2 located. Two additional equipment cabinets are also proposed in addition to the existing cabinet.

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

**Unless a decision on this application is communicated to the developer by the 18<sup>th</sup> September 2014 the development will be able to proceed as proposed.**

## **RECOMMENDATION**

- (a) Prior approval is required, and**
- (b) Should the decision on (a) be agreed then the recommendation is to PERMIT.**

## **Reason for Recommendation**

It is considered that the development in this instance requires the benefit of prior approval and in assessing its siting and design it is considered that the replacement structure and associated equipment cabinets would not harm the visual amenity of the area due to its acceptable height, design and location within the street scene that would have the benefit of some tree screening. The proposal would also avoid the need for an additional structure of a similar size and design within the area to meet the network requirements and would 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 policy T19 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).

## **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

Newcastle Under Lyme Local Plan 2011(NLP)

T19: Telecommunications Development – General Concerns

T20: Telecommunications Development – Required Information

## **Other Material Considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

## **Relevant Planning History**

14/00243/TDET Replacement of the existing 11.8 metre column for a 15 meter dual user monopole and the installation of 2 additional radio equipment cabinets Permit

10/00482/TDET Installation of an 11.8m high telecommunications street pole accommodating 6no. 3G antennas, radio equipment cabinet and 1no. electrical meter pillar to be used by O2 and Vodafone Permit

99/00412/TDET Determination on whether telecommunications apparatus requires prior approval  
**Permit**

01/00496/TDET1 Prior approval required for telecommunications apparatus **Refuse**

### Representations

No letters of representation have been received.

### Applicant/agent's submission

The agent has submitted a supporting statement in relation to the above proposal. A summary of the key points are as follows;

- It is of note that prior approval was recently granted for a 15 metre high street pole at this location. However, following on from this decision the applicant undertook further investigations and it has been discovered that there are underground services located within the previously proposed position for the replacement pole preventing the operator from implementing the scheme as approved.
- The overall height of 15 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. It would also result in existing masts no longer being required and decommissioned in the future once this is technically feasible.
- The dimensions of the structure is the thinnest available to support the necessary equipment. The pole would be painted grey which will help it to assimilate within the existing street scene. The choice of a slim line streetworks monopole with shrouded antennas is considered to be appropriate as it would minimise the visual impact of the development within the street scene.
- The proposed equipment cabinets are less than 2.3 cubic metres each and will be located alongside the new monopole. It should be recognised that these, on their own merits, do not normally require a formal determination and are often permitted development. They have a similar appearance to existing cabinets found in a street scene.
- The applicant has detailed that alternative sites have not been considered in this instance and are not generally required for upgrades/alterations to existing sites. Technological advances has enabled a mast share structure to be progressed that previously was not possible. Mast shares have in the past involved tall heights due to the separation needed between each operators set of antenna or large exposed antenna 'head frames'.

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

The full document is available for full inspection at the Guildhall and on the Council's website [www.newcastle-staffs.gov.uk/planning/1400566TDET](http://www.newcastle-staffs.gov.uk/planning/1400566TDET)

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

### **KEY ISSUES**

The application is a resubmission following approval for a replacement 15 metres dual user monopole and two additional ground based radio equipment cabinets granted in May 2014. The location of the approved scheme could not be implemented due to underground services within the verge preventing it from being constructed. A new location is therefore proposed and the application is again for a determination as to whether prior approval is required for the siting and appearance for the new location.

The recently published 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 to 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 when reaching an initial decision on whether prior approval is required, and if so into the consideration as to whether prior approval should be granted.

### **Is prior approval is required?**

Prior approval is only required where local planning authorities judge that a specific proposal is likely to have a *significant* impact on its surroundings.

The application is for the replacement of an existing telecommunications monopole located on the highways verge in a suburban residential area of Newcastle. The replacement monopole would have a greater height than the existing structure and would now be located further away from the existing structure. It would result in two operators sharing the same base station and two additional ground based equipment cabinets still being proposed within the grass verge.

The immediate area also has an existing street works monopole operated by EE (previously Orange PCS).

Whilst a structure has been granted previously the proposed location moves the monopole further away from a tree and due to the suburban residential land use predominant in the area, the increase in height, the addition of further equipment cabinets and other telecommunications structures being within close proximity it is considered that that prior approval is once again required for the siting and design of the new proposal.

### **Should prior approval be granted?**

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 main issue for consideration in the determination as to whether prior approval should be granted is the design of the proposals and the impact on the visual amenity of the area.

As discussed the replacement structure and two equipment cabinets has received approval recently. However, due to underground services within the verge the location of the replacement structure has moved approximately 7 metres to the north-east with the two cabinets remaining in a similar location.

The existing structure is located on the highway verge on ‘The Square’ which has a character similar to that of a quiet village green with the key feature being a central area of public open space with a number of trees on it. It is located adjacent to an established tree that provides a high level of screening, particularly from the south west. Further screening is provided from views from the east by the canopies of trees on the public open space.

The existing structure is considered to be of a modest height that assimilates well within the street scene due to its slim line design and position.

The proposal would result in an additional height of 3.2 metres (overall height of 15m metres to the top) with a thicker monopole being used than the existing. The replacement structure would enable two operators to ‘mast share’ and avoid the need to find a location for an additional structure of a similar height and design. 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.

The amended location moves the structure away from the immediate tree and so loses the benefit of a certain level of screening. Therefore the proposed development would be more visible within the wider street scene. However, the design is considered the optimum solution that would have the least amount of impact on the visual amenity of the area due it being a mast share and it having an unfussy slim design.

The proposed additional ground based equipment cabinets would also be sited on the grass verge and whilst they result in additional street furniture they would not result in a cluttered environment on this open grass verge. The green colour scheme proposed is similar in nature to those seen developed by the highway authority and telephone engineers which are generally seen as a traditional part of the streetscene.

The proposal, whilst it is higher than the existing and involves additional equipment cabinets, 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 proposed mast sharing and improved network that the proposal would achieve. The proposal is therefore considered to comply with local and national telecommunications policies and that prior approval should be granted.

### **Background Papers**

Planning File referred to  
Planning Documents referred to

### **Date report prepared**

11<sup>th</sup> August 2014

# Grass verge adjacent to The Square, Pilkington Avenue

14/00566/TDET

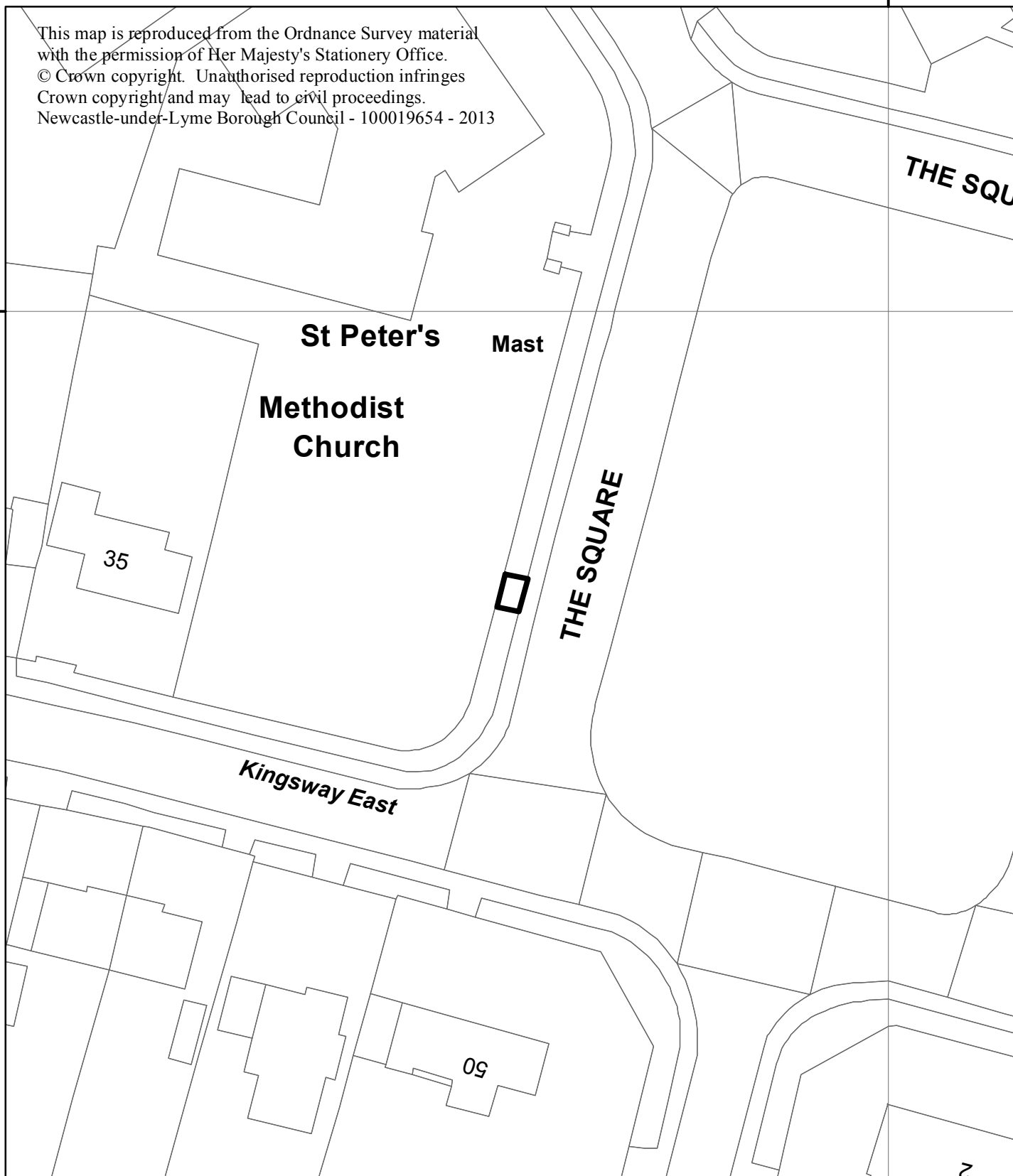


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27 IRONMARKET NEWCASTLE

Mr Linh

14/00456/FUL

The application is for full planning permission for a change of use of the premises from a shop (use class A1) to a nail bar (sui generis) and external alterations to the existing shop front.

The site is within the Town Centre Conservation Area as defined on the Local Development Framework Proposals Map.

**The statutory 8 week period for the determination of this application expires on 26<sup>th</sup> August 2014.**

## **RECOMMENDATION**

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

- 1. Standard time limit.**
- 2. Approved plans**
- 3. Submission of materials**
- 4. Detailed joinery plans**
- 5. Colour of paint work**

## **Reason for Recommendation**

The proposed change of use would result in the loss of a Class A1 shop within a Primary Shopping frontage and the cumulative impact of the development in addition to the other non Class A1 uses would reduce the retailing attractiveness of the frontage which would be contrary to Policy ASP 4 of the Newcastle under Lyme and Stoke on Trent Core Strategy (2009), the Newcastle under Lyme Town Centre SPD (2009) as well as the aims and objectives of the National Planning Policy Framework. However, material considerations would outweigh the policy objections in this instance with the proposed use as a nail salon contributing positively to the mix of services on offer within the town centre, encouraging the expansion of an existing business and it would bring back into use a vacant unit which would meet sustainable development objectives in accordance with paragraph 14 of the NPPF.

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

Pre-application discussions were undertaken with the applicant and assistance provided. Furthermore, whilst the principle of the change of use is considered to be contrary to policy there are material considerations which outweigh the policy concerns and the LPA has approached decision taking in a positive manner to comply with the guidance set out in paragraphs 186 and 187 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 SP2: Spatial principles of Economic Development  
Policy ASP4: Newcastle Town Centre Area Spatial Policy

#### Newcastle under Lyme Local Plan 2011

Policy T16: Development – General Parking Requirements  
Policy T18: Development – Servicing Requirements  
Policy B9: Prevention of Harm to Conservation Areas  
Policy B10: The requirement to preserve or enhance the character or appearance of conservation areas

#### **Other Material Considerations**

##### Relevant National Policy Guidance:

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

##### Supplementary Planning Guidance

Newcastle under Lyme Town Centre Supplementary Planning Document (January 2009)  
Staffordshire County Council Transport and Development Control Standing Advice  
Newcastle under Lyme Borough Council (2009)

##### Newcastle-under-Lyme Retail & Leisure Study 2011

#### **Relevant Planning History**

14/00120/ADV Illuminated fascia sign and non-illuminated hanging sign Permit

14/00121/FUL Replacement shop front including alterations to the entrance, replacement of windows and fitting of new cill Permit

#### **Views of Consultees**

The **Conservation and Urban Design officer** raises no objections.

The **Highways Authority** raises no objections.

The **Conservation Advisory Working Party** raises no objections subject to conditions regarding more specific joinery details, materials and roller shutter details.

#### **Representations**

None received.

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

A design and access statement has been submitted to support the application along with an assessment of significance.

The application details are available to view at the Guildhall or using the following link [www.newcastle-staffs.gov.uk/planning/1400456FUL](http://www.newcastle-staffs.gov.uk/planning/1400456FUL)

## Key Issues

The unit was last used as a shop (Class A1 use) but it is currently unoccupied and was last in use, according to the applicant, in 2013. The proposal is to change the use of the premises to a nail salon which is likely to include some ancillary retail sales. An alteration to the shop front is also proposed.

The property lies within the Town Centre Conservation Area as defined on the Local Development Framework Proposals Map.

Therefore the main issues for consideration are;

- Whether or not the loss of a retail unit in this location will have an acceptable impact upon the viability and vitality of the Town Centre., and
- The impact of the proposed external alterations on the character and appearance of the town centre conservation area.

### Will the proposal have an acceptable impact upon the viability and vitality of the Town Centre?

Policy ASP4 sets out a number of considerations for the Town Centre. Point 5 refers to the development of a spatial framework which is the Councils Town Centre Supplementary Planning Document (SPD).

The Town Centre SPD indicates that the unit lies within the Primary Shopping Area of the Town Centre where retail is the primary activity and also within the Prime Frontage where pure retail uses are expected to dominate rather than other high street uses (bars, restaurants banks, etc). The Prime Frontage is defined as the frontage of the square created by Ironmarket, High Street, Castle Walks and Hassell Street.

Paragraph 14 indicates that at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies out-of-date, grant planning permission unless

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
- Specific policies that indicate development should be restricted.

The NPPF at paragraph 23 states that planning policies should be positive, promote competitive town centre environments. It goes on to say that in drawing up Local Plans, the LPAs should, amongst other things promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres.

Government policy guidance therefore continues to support the concept of primary shopping frontages and the need to control the uses within them in addition to its continued emphasis on retail offer in town centres. As such it is considered that Policy ASP4 of the Core Spatial and the SPD are up-to-date and the impact of the

loss of a retail unit, as proposed, on the Primary Shopping Area should be addressed.

A number of existing units on Ironmarket have been the subject of changes of use applications recently. The most recent application being for the change of use of an A1 shop to a traditional Thai head and foot therapy business (a sui generis use) at no. 23 (13/00532/COU). The application was permitted in 2013 despite the change of use resulting in the loss of A1 shop use.

This application is for the further loss of a 'pure retail use' within the primary shopping frontage to a use not falling within an A1 use class. However, it is considered that the proposal would provide a number of benefits to the town centre due to the occupation of a vacant unit and the proposed use as a nail salon having similar characteristics to a hairdressers which does fall within use class A1. Furthermore, whilst it is acknowledged that there is an existing nail salon in close proximity to the application unit it is considered that the proposal would contribute to the services on offer within the town centre. The existing nail salon is operated by the applicant and the proposal is an expansion of the business due to the success at the existing premises. Therefore the proposal would support a successful business expansion within the town centre.

It also has to be acknowledged that the Government has made changes to the General Permitted Development Order in an attempt to stimulate development and business. This (amongst other changes) introduced Class D development to Part 4 of Schedule 2 which relates to temporary use of buildings and allows the change of use of a building from Class A1 (shops), of up to 150m<sup>2</sup> floor space, to other specified uses for a single continuous period of up to two years beginning on the date the building (or land) begins to be used for one of the flexible uses. At the end of the two year period the site must revert to its previous lawful use.

The proposed sui generis use does not benefit from such permitted development rights and the applicant has not indicated that a temporary permission is being sought nor it is considered appropriate in this case to grant a temporary permission. The change to the permitted development rights does, however, reflect the Government's approach to small units in Class A1 use and the perceived benefits of bringing shops back into use; providing opportunities for start-up businesses and community groups; and encouraging owners to consider whether rents are realistic.

In consideration of the above your officers are of the view that the proposal would be contrary to local and national planning policy due to the proposed sui generis use resulting in the loss of a further A1 unit within the prime shopping frontage of the town centre. However, the nature of the proposed use would contribute positively to the services on offer in the town centre, it would also bring back into use a vacant shop front in the prime shopping frontage and it would help an existing business located within the town centre to expand. The benefits would therefore outweigh any harm caused by the policy objections to the proposal and would meet sustainable development objectives as outlined in paragraph 186 and 187 of the NPPF.

#### The impact of the proposed external alterations on the character and appearance of the town centre conservation area

Paragraph 132 of the recently published NPPF details that when considering the impact of a proposed development on the significance of a designated heritage asset; great weight should be given to the assets conservation. The more important



the asset the greater the weight should be and any harm or loss should require clear and convincing justification.

Policy B10 of the Local Plan indicates that the permission will be granted to alter the external appearance of any building only if its appearance will preserve or enhance the character or appearance of the Conservation Area.

The existing shop front has an unsightly appearance that does not enhance the conservation area due to the security shutter, box sign, blind other clutter on the frontage.

A previous proposal was permitted recently which would have made a positive contribution on the appearance of the conservation area and street scene in general. The alteration now proposed can be described as minimal but would allow additional internal floor space for the future occupiers. It would also result in a reduction in the size of the existing external recess. It is considered that the proposal would be a positive contribution to the appearance of the street. The details provided are limited and CAWP have requested conditions for more detailed joinery details, materials and roller shutter details. Officers agree that the material and joinery details are necessary to ensure that the works further enhance the conservation area and street scene in general. The roller shutter is existing and no information has been submitted to suggest a new shutter would be installed as part of the proposals. Therefore a condition is not advised.

Subject to conditions the development is considered to accord with policies B9, B10, B13 and B14 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.

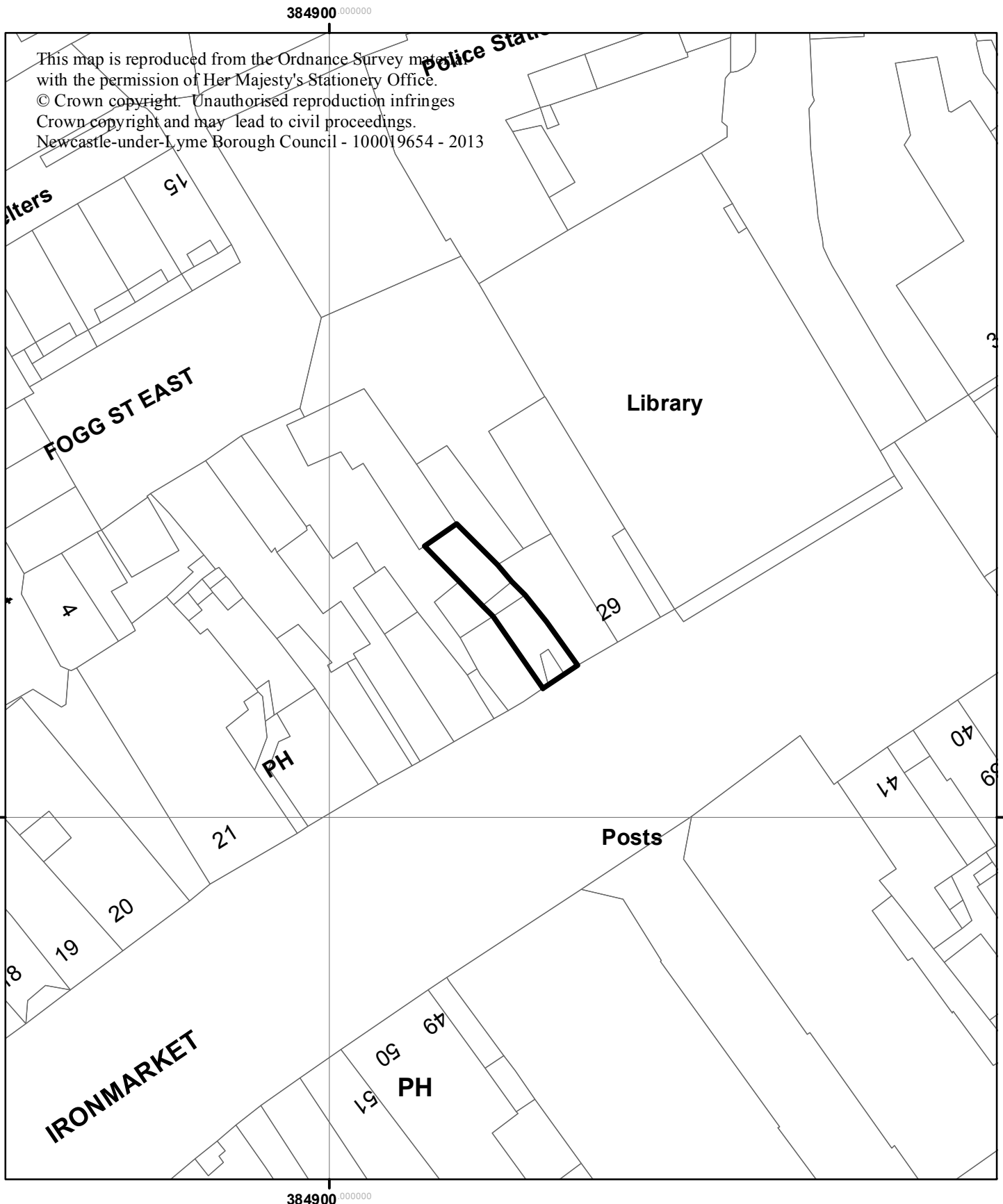
#### Background Papers

Planning File  
Development Plan  
National Planning Policy Framework (2012)

#### Date report prepared

13 August 2014

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**APPEAL BY MR DENNIS SLATER AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF THE EXISTING WAREHOUSE AND ERECTION OF A REPLACEMENT WAREHOUSE CLASS B8 OF THE USE CLASSES ORDER INCLUDING A NEW VEHICLE ACCESS AND ANCILLARY WORKS AT MAERFIELD GATE FARM, STONE ROAD, MAER**

<b><u>Application Number</u></b>	<b>14/00011/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Committee 28<sup>th</sup> November 2014</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Date of Appeal Decision</u></b>	<b>6<sup>th</sup> August 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 14/00011/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be the effect on the interests of sustainable development, having regard to local and national policies relating to the location of economic activity. In allowing the appeal, the Inspector made the following key comments:

- The appeal site is situated about 1 kilometre from the nearest significant settlement of Baldwin's Gate and is otherwise surrounded by open countryside.
- The existing structure has a certified lawful use for storage for non-agricultural materials. That lawful use does not extend to the remainder of the appeal site.
- The floorspace of the proposed building would be marginally less than exists now. The practical storage capacity of the existing structure is restricted by its partly unenclosed form. However, there are no submissions to suggest that there would be valid planning grounds for withholding consent for appropriately coloured and textured cladding, for which security considerations could provide a legitimate justification. Thereby, the effective storage capacity would be enhanced within the terms of the lawful use. Further, whilst the certification gives examples of non-agricultural materials it does not preclude or restrict by quantity any other such materials from being lawfully stored.
- Proposed provision within the site for commercial vehicles to manoeuvre and for car parking would expand the effective area of the non-agricultural use. However, the current level of activity could lawfully increase substantially. The evidence does not demonstrate that the proposal would necessarily involve a material increase in storage capacity and related activity above what is considered to be a reasonable and realistic fallback position. Substantial weight is attached to this conclusion.
- The Council's conclusion that the proposal would not serve the interests of sustainable development appears to be largely based on its assessment of the scale of intensification of use that would occur. Whilst it is common ground that the use would be intensified, taking the above considerations into account it is not considered that intensification above the potential fallback position would be of the scale implicit in the Council's assessment.
- There is an inevitable tension between the Strategic Aims of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (LP) to reduce the need to travel by focussing development in selected communities and to foster the employment base of all parts of the plan area. Regard has been had to LP Policies SP1, SP3 and ASP6, the thrusts of which are to support sustainable patterns of development and to adopt a positive approach to rural enterprises and to national policy and advice on related matters. Weighing positive points on both sides of the issue, and having particular regard to his initial conclusion, the Inspector further concluded that on balance the scheme would leave the interests of sustainable development substantially unharmed.
- The Inspector acknowledged local concerns regarding highway safety but concluded that there is no substantive evidence to justify overriding the advice of the Highway Authority.

- The proposed building would not be materially more noticeable than the existing and its visual impact could be further reduced by effective planting across much of the vehicle access. Careful control of external materials would ensure that it would not look out of place in this location.
- The Inspector concluded that these other matters do not outweigh his conclusions on the main issue, from which it follows that the appeal should succeed.

### **COSTS APPLICATION IN RELATION TO THE ABOVE APPEAL PROCEEDINGS**

- The Council's letter of 13 February 2013 responds to the applicant's agent's letter of 22 November 2012 following a pre-application discussion. It sets out the view that the location is unsustainable, but acknowledges the lawful use of the site and anticipates support for the replacement of the existing building at a similar scale. The appeal building is of a similar scale. Even so, it includes ancillary office accommodation and the plans show an enlarged replacement access and a layout of parking spaces on unused adjacent land, all indications of the acknowledged intention to increase significantly the scale of activity on the site.
- There is no evidence to indicate that such increased activity, office and parking provision was proposed or acknowledged at the time of the discussion. The Council's appeal statement explains why it did not consider the submitted scheme to be comparable with the existing building. This in turn provides a reason for it to be unfettered by the earlier advice.
- The initial Council view that the existing building could have a detrimental effect on character and appearance is not inconsistent with its later opinion that the appeal scheme will not positively enhance the landscape. In any event, character and appearance is not mentioned in the Council's reason for refusal, and is not identified as a main issue in the appeal decision. Accordingly, it is not material that the Council does not substantiate this later opinion.
- The established lawful use of the existing building is acknowledged in both the Council's letter of 13 February 2013 and in its officer's report and appeal statement. This indicates that the Council did regard the lawful use as a material consideration. The statement also explains why it took this to be the fallback position, bearing in mind that planning permission would be needed to clad parts of the building to increase its effective capacity. A different conclusion as to the reasonable and realistic fallback position does not render the Council's stance unreasonable.
- Whilst the Council's evidence does not evaluate the scheme in terms of Strategic Aim 5 of the *Newcastle-Under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026* (LP), its relevance is noted in the officer's report. Though the Aim seeks to foster the employment base of all parts of the plan area, it does not follow that employment development should be permitted irrespective of location and other considerations. In considering the scheme in the context of the LP as a whole, the Council was entitled to give overriding weight to other Strategic Aims to reduce the need to travel and to focus development in named rural service centres.
- The Council acknowledges that LP Policy ASP6 adopts a positive approach to rural enterprise, in which appropriate replacement of existing buildings in sustainable locations will be encouraged. Similarly, the relevance of the site's previously developed status is acknowledged. However, through references to criteria in other LP policies the Council's evidence substantiates why it does not regard the location as sustainable. On that basis, paragraph 28 of the *National Planning Policy Framework* has limited relevance. Paragraph 55, to which the applicant also refers, relates specifically to housing development.
- For the above reasons, the Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

### **Recommendation**

That the decisions be noted.

## FIRST QUARTER 2014/15 REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO

### **Purpose of the Report**

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

### **Recommendations**

**a) That the report be noted**

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

### **Introduction**

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

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

This report covers the period between 22<sup>nd</sup> April 2014 (when the Committee last received a similar report) and the date of the preparation of this report (14<sup>th</sup> August 2014).

In the period since the Committee's consideration of the last quarterly report section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent extensions, with respect to some 11 applications.

Whilst the report is only concerned with those cases where decisions have had to be made on whether or not to agree to provide an extended period, it is evident from that there have been problems in concluding obligations across a number of cases. Insofar as the Council is concerned (obligations involve a number of parties) this reflects workload pressures within both Planning and Legal services. It is recognised that the Council needs to maintain a focus on delivery of these obligations – which can become over time just as important (to applicants) as achieving a prompt consideration of applications by Committee.

As from 1<sup>st</sup> October 2013 Local Planning Authorities are required, as part of the so called Planning Guarantee, to refund any planning fee paid if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the Local Planning Authority have agreed in writing that the application is to be determined within an extended period. This applies to applications received after the 1<sup>st</sup> October 2013. This provides yet another reason for the Planning Service maintaining

a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

In cases where extensions of the period within which an obligation may be secured have been considered appropriate your Officer's agreement to that has been on the basis of that should he consider there to be a material change in planning circumstances at any time short of the signing of the final document he retains the right to bring the matter back to the Planning Committee. Applicants are also asked to formally agree a parallel extension of the statutory period within which no appeal may be lodged by them against the non-determination of the application, and in most cases that agreement has been provided.

Details of the applications involved are provided below:-

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

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

The obligation was not secured by the 17<sup>th</sup> July 2013 and was subsequently extended, in consultation with the Chair and Vice Chair, to the 6<sup>th</sup> September 2013. and again later on to the 16<sup>th</sup> May 2014.

The agreement remains unsecured and the application undetermined.

There have been extensive delays on both sides at different times in bringing this matter to a conclusion. The current position is that the applicant has signalled their unwillingness to complete an agreement along the lines which your officers consider reflect the resolution of the Committee; your officers have given them a final opportunity to reconsider that, and a response is currently awaited. The related planning application is a retrospective one and there is interest by another party and indeed concern by them about the delay. It is your officers' intention to bring the application back to the Committee in September for reconsideration if agreement cannot be reached. In terms of the period within which the Section 106 can be completed, the Chair and Vice Chair have not been consulted on a new date since the agreed date ran out in May (and no new date has been agreed since).

At the time of writing some 69 weeks have passed since the application was received (before the introduction of the Planning Guarantee).

An update on the position will be provided to the Committee.

**(2) Application 13/00712/FUL – Blackfriars, Lower Street, Newcastle**

This is another application that was reported on the last quarterly report with limited progress being made.

This application, for a new foodstore with associated parking, servicing and landscaping first came before the Planning Committee at its meeting on the 10<sup>th</sup> December 2013. The resolutions of the Committee inter alia required that certain obligations, relating to the payment of contributions to NTADS, travel plan monitoring, the use of an automatic number plate recognition system, the improvement of nearby subways and the provision of a future footpath, be entered into by the 31<sup>st</sup> January 2014, unless your Officer considered it appropriate to extend the period. That did not occur and the application



came back before the Planning Committee at its meeting on the 18<sup>th</sup> February 2014, both to address the issue of whether additional time should be provided for the agreement to be completed, and because of the outstanding objection from the Environment Agency.

The Committee having agreed that the development was acceptable, notwithstanding the by then confirmed objection of the Environment Agency, extended the period of time within which the same obligations had to be entered into until the 7<sup>th</sup> March 2014. That date passed without the obligations being secured, although a contributory factor was that the Secretary of State had not at that time determined whether or not to 'call-in' the application (which had been referred to him under the Consultation Direction as flood risk area development). He made that decision on the 1<sup>st</sup> April, advising the LPA that they could proceed to determine the application. In the interim a draft agreement had been prepared and the agreement sought of the County Council to its contents – the County being required to be a party to the agreement. Your officer agreed on the 1<sup>st</sup> April, on the basis that there was not yet an agreement approved by the Councils available to the applicant, that it was reasonable and appropriate to permit the applicant additional time until the 25<sup>th</sup> April to conclude the agreement - having secured from the applicant their agreement to similarly extend the statutory period (within which they cannot appeal against the Council's non-determination of the application). Subsequently when this 25<sup>th</sup> April date was not met a further extension of time, until 23<sup>rd</sup> June, was then agreed.

That date also was passed without completion of the agreement but progress in completing the agreement has continued to be made, and although no formal arrangement has been agreed, officers have held off from refusing the application. As at the end of July agreement was reached on the wording of the obligation, and completion of it is expected very soon (as is a commencement of the development).

At the time of writing some 48 weeks have passed since the application was received (before the introduction of the Planning Guarantee).

It is hoped to provide a supplementary report to the Committee on the progress made.

### **(3) Application 13/00625/OUT – Unit 7, Linley Trading Estate, Butt Lane**

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

Subsequently a report was brought before the Planning Committee on the 11<sup>th</sup> March and the Committee accepted certain recommendations as to the content of the planning obligations which are to be sought, whilst at the same time allowing the applicant until the 22<sup>nd</sup> April to conclude the legal agreement. This deadline was not met.

As previously reported an extension until the 22<sup>nd</sup> May was subsequently agreed. The agreement was not secured by that date, but the applicants have continued to actively pursue the matter, and your officer considered that refusal in such circumstances would have been unreasonable. In early July it was agreed to allow until the 1<sup>st</sup> August for the agreement to be concluded, but that date too was not achieved, for various reasons. The applicants have expressed strong concerns about delays. A number of drafts of the agreement have been produced and circulated amongst the various parties, and with further instructions now provided by your officers it is hoped that the matter will soon be

concluded, although the agreement of a considerable number of parties is required in this case. A new backstop date has not yet been specified and the intention is now to do so.

This application was received after the introduction of the Planning Guarantee and at the time of writing some 43 weeks have passed since receipt of the application, but no repayment of the planning fee is due in this particular case.

A supplementary report will be provided to the Committee on this case.

#### **(4) Application 14/00077/FUL – Maer Hall, Maer**

This application came before the Planning Committee on the 11<sup>th</sup> March 2014, the Committee giving until 24<sup>th</sup> March for the completion of an obligation. The previous quarterly report detailed that your officer had agreed to extend the deadline to the 5<sup>th</sup> May 2014 for the securing of the obligation.

The 5<sup>th</sup> May date passed without completion of the obligation.

The wording of the planning obligation has been agreed but the applicant has asked to see the draft decision notice before signing the agreement. That has been provided to him but there has been a further delay it would appear due to his absence abroad. Given the very advanced stage the matter has reached your officers have not issued a notice of refusal, but they are pressing the applicant to bring the matter to a resolution, failing which the Authority could refuse the application.

At the time of the writing some 27 weeks have passed from receipt of the application, the application being received after the introduction of the Planning Guarantee, but no repayment is due in this case.

#### **(5) Application 08/00795/EXTN2 – Former Holdcroft Garage, Knutton Lane, Wolstanton**

The application for permission to renew a previous permission for residential development on this site came before the Planning Committee at its meeting on the 7<sup>th</sup> January 2014. The resolutions of the Committee inter alia required that obligations securing financial contributions to NTADS and open space enhancement be secured by 7<sup>th</sup> February unless your officer considered it appropriate to extend the period.

The previous quarterly report advised that a new deadline had been specified – 7<sup>th</sup> May 2014. That date passed without the obligation being secured. There has been no active interest shown by the applicant in concluding this matter and in the circumstances a decision has now been made to refuse the application.

At the time of writing some 38 weeks have passed since receipt of the application. The application was received after the introduction of the Planning Guarantee but no repayment of the fee will be required in this particular case.

#### **(6) Application 14/00027/FUL Land adjacent to 31 Banbury Street**

This application for permission for the erection of 13 dwellings came before the Planning Committee at its meeting on the 11<sup>th</sup> March 2014. The resolutions of the Committee inter alia required that obligations securing financial contributions to NTADS, education provision and open space improvement be secured by the 14<sup>th</sup> April.

As previously reported the applicant has informed the authority that such a level of contributions would make the scheme unviable. It was previously agreed to extend the period within which an agreement can be secured and it was indicated that the intention was to bring a report to the 13<sup>th</sup> May Committee, if the applicant provided additional

information and assisted in its appraisal – because any decision to alter the contributions secured would have to be made by the Committee. Your officers understood that additional information would be submitted, but this has not been forthcoming. Your officers will be raising the matter again with the applicant.

At the time of writing some 29 weeks have passed since receipt of the application. The application was received after the introduction of the Planning Guarantee however no fee is refundable in this case, as the application being a resubmission, was not accompanied by a fee.

**(7) Application 13/00990/OUT Land Adjacent To Rowley House, Moss Lane, Madeley**

This application for the erection for 42 dwellings and associated works came before the Planning Committee at its meeting on the 22<sup>nd</sup> April 2014 (the 13 week period expiring on the 5<sup>th</sup> May 2014). The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by the 20<sup>th</sup> May 2014. The obligations to be secured relate to education and public open space contributions which are to be applied on a sequential basis, as well as affordable housing.

There were delays in instructing Legal Services in this matter, and as a consequence it was considered appropriate to agree to extend the period initially until 23<sup>rd</sup> June. That date passed without the securing of the agreement, but again bearing in mind that the delay was on the Council's side, it was considered unreasonable to refuse the application. The applicants have now taken over preparation of the initial draft agreement which will then be circulated for comment amongst the various interested parties. Your Officer has agreed to extend the period for securing the obligations to 31<sup>st</sup> August, although it is already recognised that more time will be required. The applicants have demonstrated a clear wish to conclude the agreement, which, given its unusual terms, is likely to take some time to conclude.

At the time of writing some 27 weeks have passed since receipt of the application. The application was received after the introduction of the Planning Guarantee but no repayment of fee will be required in this particular case.

**(8) Application 13/00525/OUT Land Between Apedale Road and Palatine Drive, Chesterton**

This application for the erection of up to 350 dwellings including open space, new vehicular access, infrastructure, ancillary development and associated earthworks which came before the Planning Committee at its meeting on the 11<sup>th</sup> March 2014. The resolution of the Committee was that planning permission should be granted subject to prior securing of a planning obligation by the 29<sup>th</sup> May 2014. The obligations sought include an NTADS contribution, a contribution towards an extended bus service, an education contribution, affordable housing, a travel plan monitoring contribution and a reappraisal mechanism.

There have been extensive negotiations since March with the applicants regarding the details prior to the instruction of solicitors. The applicant has shown every wish to conclude an agreement, and in the circumstances appropriate extensions of time have been agreed by your officers.

At the time of writing some 55 weeks have passed since receipt of the application. The application was received after the introduction of the Planning Guarantee but no repayment of fee will be required in this particular case.

It is hoped to provide the Committee with an update via a supplementary report.

**(9) Application 14/00217/FUL Land At High Street/Marsh Avenue/Silverdale Road, High Street, Wolstanton**

The proposal before the Authority was to vary condition 6 of planning permission 13/00487/FUL that permitted 62 No. 1, 2, and 3 bedroom apartments for persons aged over 55, with associated works. The variation of condition 6 sought a change to the floor plans to include 2 additional apartments and additional floor space.

The application came before the Planning Committee at its meeting on the 10<sup>th</sup> June 2014. The resolution of the Committee was that planning permission should be granted subject to prior securing a planning obligation by the 10<sup>th</sup> July 2014 (the thirteen week period having already expired on the 13<sup>th</sup> June 2014.). The obligation being sought is similar to that which has been previously achieved on this site.

Given that the applicant has been pressing to conclude this agreement, and the delay has been largely on the Council's side your officers agreed to extend the period of time for the completion of the S106 to the 7<sup>th</sup> August 2014. That date too has passed without the matter being finalised and in the circumstances a further period of time is to be agreed.

At the time of writing some 22 weeks have passed since the receipt of the application, the application being received after the introduction of the Planning Guarantee.

An update on this application will be provided to the Committee.

**(10) Application 14/00284/FUL Former Priory Day Centre, Lymewood Grove, Newcastle**

This application for the demolition of the redundant day care centre and the construction of 13 new single storey dwellings which came before the Planning Committee on the 24<sup>th</sup> June 2014. The resolution of the Committee was that planning permission should be granted subject to prior securing of a planning obligation for off-site public open space contributions by the 23<sup>rd</sup> July (the thirteen week period expiring on the 29<sup>th</sup> July).

Although the 23<sup>rd</sup> July passed without completion of the agreement, it was by then at an advanced stage. The applicant will be advised as to a new deadline for its completion this being the appropriate course of action in your Officers opinion given the proximity of the committee decision to the original deadline, and the progress made in the interim.

At the time of writing some 16 weeks have passed since receipt of the application.

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

**(11) Application 14/00362/FUL Unit 7 Linley Road, Trading Estate, Butt Lane**

This application for a variation of conditions of an outline planning permission granted on appeal for a retail development with commercial units came before the Planning Committee on the 15<sup>th</sup> July 2014. The resolution of the Committee was that planning permission should be granted subject to the prior securing by the 13<sup>th</sup> August of a planning obligation for a contribution to travel plan monitoring.

That date has passed without the drafting of the obligation by the Council having commenced and so your officer has concluded that it would be appropriate to allow for a further period. How long that will be is a matter is being discussed with the solicitor dealing with the case.

At the time of writing some 13 weeks have passed since receipt of the application.

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

Date Report prepared  
14<sup>th</sup> August 2014

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