

# Public Document Pack

**Date of meeting** Tuesday, 5th August, 2014  
**Time** 7.00 pm  
**Venue** Council Chamber, Civic Offices, Merrial Street,  
Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact** Julia Cleary 01782 742227

## Planning Committee

### AGENDA

#### PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**  
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING** (Pages 3 - 8)  
To receive the minutes of the previous meeting held on 15 July 2014.
- 4 **Application for Major Development - Tudor House, Main Road, Betley; Dr Paula Richards; 14/00355/FUL & 14/00356/LBC** (Pages 9 - 14)
- 5 **Application for Major Development - 27 Hardingswood Road, Kidsgrove; Mrs Katy Stanway; 14/00453/FUL** (Pages 15 - 22)
- 6 **Application for Major Development - Land off Pepper Street, Keele; Keele Home Ltd; 13/00970/OUT** (Pages 23 - 50)
- 7 **Application for Minor Development - Minton Street/High Street, Wolstanton; Vodafone LTD, 14/00480/TDET** (Pages 51 - 56)
- 8 **Application for Minor Development - Transmission Station, Camp Hill, Baldwins Gate; Telefonica & Vodafone LTD; 14/00507/TDET** (Pages 57 - 62)
- 9 **Application for Other Development - Car Park, School Street; Newcastle under Lyme Borough Council; 14/00418/DEEM3** (Pages 63 - 64)
- 10 **Application for Other Development - Car Park, Goose Street; Newcastle under Lyme Borough Council; 14/00420/DEEM** (Pages 65 - 66)
- 11 **Appeal Decision - 10 Castle Walk, Newcastle under Lyme, Heron Foods Ltd; 13/00977/FUL** (Pages 67 - 68)
- 12 **Appeal Decision - Garage Site, 82-88 Harriseahead Lane; Aspire Group; 13/00714/FUL** (Pages 69 - 70)
- 13 **Appeal Decision - Grange Farm, School Lane, Onneley; Mr & Mrs Cornes; 13/00739/FUL** (Pages 71 - 72)

- 14 **Open Enforcement Cases** (Pages 73 - 74)  
15 **Quarterly Report on Progress on Enforcement Cases Where Enforcement Action Has Been Authorised.** (Pages 75 - 78)

16 **DISCLOSURE OF EXEMPT INFORMATION**

To resolve that the public be excluded from the meeting during consideration of the following item(s) because it is likely that there will be a disclosure of exempt information as defined in paragraphs 1,2, 5 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.

- 17 **Quarterly enforcement report - Restricted Appendix** (Pages 79 - 80)

- 18 **Appeal in Relation to Land to the Rear of Gateway Avenue, Baldwins Gate; 13/00426/OUT** (Pages 81 - 86)

19 **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, D Becket, Braithwaite, Cooper, Fear, Mrs Hambleton, Mrs Heesom, Northcott, Proctor, Miss Reddish, Stringer (Vice-Chair), 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, 15th July, 2014

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

Councillors Mrs Bates, D Becket, Braithwaite, Cooper, Fear,  
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 4 on the agenda.  
Cllr Bates declared an interest in items 5 and 6 on the agenda.  
Cllr Becket declared an interest in item 15 on the agenda.  
Cllr Stringer declared an interest in items 5 and 6 on the agenda.

**3. MINUTES OF PREVIOUS MEETING**

It was noted that Cllr Mrs Heesom's apologies had not been recorded for the previous meeting.

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

**4. APPLICATION FOR MAJOR DEVELOPMENT - LAND NORTH OF PEPPER STREET, KEELE; KEELE HOMES; 13/00970/OUT**

Cllr Naylor spoke against the application.  
Cllr Kearon spoke against the application.

Officers reminded the Committee that the recommendation was to defer any decision relating to the application at this time to allow for the receipt and consideration of the Final District Valuer's report.

If the Committee wished to consider a site visit then it was recommended that a decision relating to this be made.

A site visit was proposed on the grounds that should the application be deferred at this time a site visit at a later time would be unreasonable.

It was also noted that a site visit had been recommended by both the applicant and the objectors.

Some concerns were raised by a member that there were no provisions should it be decided by the applicant that having started the development it was no longer viable to continue and it was suggested that a provision be made to ensure that the site was not left in a poor state. Officers stated that this would be included.

**Resolved:** That a decision on this application be deferred to enable the receipt and consideration of the Final district Valuer's report and so that a site visit could be held on Thursday 24<sup>th</sup> July at 6.15pm

5. **APPLICATION FOR MAJOR DEVELOPMENT - UNIT 7, LINLEY TRADING ESTATE, LINLEY ROAD; REALTY ESTATES LTD; 14/00362/FUL**

Officers confirmed that there was already outline consent for retail development of a certain size therefore this cannot now be in question. Therefore the Committee were advised to only consider the variation and removal of conditions as stated in the report.

**Resolved:**

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

6. **APPLICATION FOR MAJOR DEVELOPMENT - UNIT 7, LINLEY TRADING ESTATE, LINLEY ROAD; REALTY ESTATES LTD; 14/00363/REM**

**Resolved:**

- a) That the application be permitted, subject to conditions relating to the following matters:
  - Link to outline planning permission and conditions
  - Approved plans
  - Materials to be as per the submission, or other materials to be agreed in writing
  - Submission/approval/implementation of details of site access

- Roads, parking, servicing and turning areas in compliance with Drawing No. 8419 P14 Rev D
- Compliance with arboricultural method statement
- Construction environmental management plan
- Noise assessment
- Restrictions on HDV activity
- Restrictions on access to car parking areas
- Lighting
- The submission of details of a pedestrian/cycle path link up to the boundary of the site and subsequent implementation and retention of that link for public use.

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

**Resolved:**

(a) That the application be submitted subject to:

- Condition 16 of 03/00790/REM to be varied to require the provision of two bus stops within the development (one bus stop with a shelter and one bus stop with a raised curb only).
- A condition requiring approval of full details of brook crossing and its implementation within a period of time reflecting completion of the remainder of the development.

8. **APPLICATION FOR MAJOR DEVELOPMENT - SQUIRES COPPER, MOUNT ROAD, KIDSGROVE; EDGEWAY DEVELOPMENTS; 14/00235/REM**

**Resolved:**

That the application be permitted subject to the following conditions;

- Link to outline planning permission and conditions
- Plans and finishing materials as per application details
- That the amended landscaping scheme be implemented including replacement trees for those damaged on site.

9. **APPLICATION FOR MINOR DEVELOPMENT - GRASS VERGE NEAR CLAYTON HALL COTTAGES, CLAYTON ROAD; VODAFONE LTD; 14/00398/FUL**

**Resolved:**

That the application be permitted with the following conditions;

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

**10. APPLICATION FOR MINOR DEVELOPMENT - BOWER END LANE FARM, BOWER LANE; VODAFONE LTD; 00448FUL**

**Resolved:**

That the application be permitted subject to the following conditions:

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

**11. APPLICATIONS FOR MINOR DEVELOPMENT -MAERFIELD GATE FARM, STONE ROAD, BLACKBROOK; STEVE BOOTH; 14/00412/FUL AND 14/00413/FUL**

**Resolved:**

That both applications be refused (reference 14/00412/FUL and 14/00413/FUL) for the following reasons:

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

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

B. The Head of Central Services, if satisfied that there is sufficient evidence that a breach of conditions has taken place, be authorised to issue a breach of conditions notice and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure compliance with the conditions of the permission which restrict the use of the building and manage to the applicant and the owner of Maerfield Gate Farm.

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

**Resolved:**

That the application be permitted subject the following conditions:

i) Hours of operation allowing use between 0900 and 1500 on weekdays only.

13. **APPLICATION FOR OTHER DEVELOPMENT - NEW HOUSE FARM, ACTON LANE, ACTON; M&B DEAVILLE & SONS; 14/00260/FUL**

**Resolved:**

That the application be permitted subject to the following conditions:

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

14. **APPLICATION FOR OTHER DEVELOPMENT - SHORTFIELDS FARM, NANTWICH ROAD, AUDLEY; MR S ADAMS; 14/00267/FUL**

**Resolved:**

That the application be permitted subject to the following conditions:

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

15. **ENFORCEMENT REPORT DODDLESPool FARM**

Cllr Becket stated that he would be registering an interest in this item due to the fact that he had requested it to be brought before the planning committee and had previously made statements relating to the subject on behalf of his constituents.

Other Members highlighted the importance of ensuring that the time limits stated in the report were adhered to.

**Resolved:**

- a) That the Council take no formal action at this time Subject to:
  - i) The industrial skips, portacabin and fuel tank having been removed (and not brought back)

- ii) The owner submitting a full planning application by the 31st July 2014 for the engineering works in the form of the construction of a pool, the formation of an access track and the depositing and removal of soil, and
  - iii) Appropriate restrictions as detailed above (relating to hours of operation, road sweeping) being complied with from now on up to the determination of the application,
- b) Should
- i) Either a full planning application not be received by 31st July 2014 or
  - ii) the industrial skips, portacabin and fuel tank either not have been removed or be brought back onto the site, or
  - iii) the interim restrictions detailed in a) above not be complied with

having regard to the provisions of the development plan and to all other material considerations, the Head of Central Services be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 for the following;

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

**16. HILLPORT HOUSE, PORTHILL BANK - TPO 153**

**Resolved:**

That Tree Preservation Order No 153 (2014), land to the north of Hillport House, Porthill Bank, Newcastle, be confirmed as made and that the owners of the site be informed accordingly.

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



TUDOR HOUSE, MAIN ROAD, BETLEY  
DR. PAULA RICHARDS

14/00355/FUL &14/00356/LBC

The application is for full planning permission (application reference 14/00355/FUL) and listed building consent (application reference 14/00356/LBC) for the retention of external alterations to the north west elevation involving the application of tiles over the roof truss.

The property is a Grade II Listed Building, and is located within the Betley Conservation Area, as defined on the Local Development Framework Proposals Map.

The application has been 'called in' to the Planning Committee by two Councillors as it is a listed building in the centre of the village and of local concern.

**The statutory 8 week determination period expired on the 10<sup>th</sup> July 2014.**

## **RECOMMENDATION**

**(A) 14/00355/FUL PERMIT** subject to a condition identifying the approved plans.

**(B) 14/00356/LBC GRANT CONSENT** subject to a condition identifying the approved plans.

## **Reason for recommendations**

The development does not harm the significance of the Grade II Listed Building, and it does not harm the character or appearance of the Betley Conservation Area. It is therefore in accordance with Policies H18, B4, B6, B9, B10, B11 and B13 of the Newcastle under Lyme Local Plan, Policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006 – 2026, and the aims and objectives of the National Planning Policy Framework.

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

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

## **Policies and Proposals in the approved Development Plan relevant to the decision on the application for planning permission (14/00355/FUL):**

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026 adopted 2009

Policy ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP2: Historic Environment  
Policy CSP3: Sustainability and Climate Change

Newcastle under Lyme Local Plan 2011

Policy B4: Control of development affecting the setting of a listed building  
Policy B6: Extension or alteration of listed buildings  
Policy B9: Prevention of harm to conservation areas  
Policy B10: The requirement to preserve or enhance the character or appearance of a conservation area  
Policy B11: Demolition in conservation areas  
Policy B13: Design and development in conservation areas

**Policies and Proposals in the approved Development Plan relevant to the decision on the application for Listed Building Consent (14/00356/LBC):**

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026 adopted 2009

Policy CSP1: Design Quality  
Policy CSP2: Historic Environment

Newcastle under Lyme Local Plan 2011

Policy B4: Control of development affecting the setting of a listed building  
Policy B6: Extension or alteration of listed buildings

**Other Material Considerations**

Relevant National Policy Guidance:

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

Relevant Planning History

93/00447/LBC	Permitted	14/9/1993	Alterations and repair work
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Views of Consultees

The **Conservation Officer** advises that the application of tiles over the north gable roof truss was carried out in 2011. The applicant claimed to have undertaken the work to deal with rain penetration and damp in the house. The Conservation Officer accepts that the hanging of tiles in this way is a method of weather protection although not generally in this area. The cladding has not changed the shape of the roof in any way and is reversible. Given where the north gable which has the applied cladding is situated, and that it is partly concealed by the adjacent Beech Wood house, the development is not considered to be visually harmful to the character of the Conservation Area and to the village and does not harm the overall significance of the listed building.

The **Conservation Advisory Working Party** has no objections

**Betley, Balterley and Wrinehill Parish Council** is of the view that the gable end should be restored to its original condition. They recognise that there is a technical issue whether the treatment is appropriate in this area, on a Grade II Listed Building, within a significant location within the Betley Conservation Area. They consider that the views of English Heritage should be sought as to whether such a treatment is appropriate on the Listed Building or whether it should be restored to its original appearance

Representations

None received

Applicant/Agent's Submission

The applications are accompanied by a Heritage statement which is summarised as follows:

- Tudor House is a Grade II Listed Building located in the Betley Conservation Area, on the principal street (Main Road)
- The historic and architectural significance of Tudor House is defined by both its fabric and aesthetic, and its social and cultural history. Tudor House is a good example of a row of once typical, modest 17th century 'black and white' timber framed cottages.
- In 2011 in an attempt to address on-going issues associated with previous shrinkage and movement of the timber frame and infill panels to the exposed gable truss

resulting in rain penetration, dampness and draughts affecting the first floor north bedroom; and to address the decayed east end of the timber truss tie beam, resulting from the ineffective pitched valley gutter to the adjoining rear wing, the decayed timbers were repaired and the exposed truss/gable 'pike' wall was hung with a sacrificial and protective clay tile outer skin.

- The owner has chosen Staffordshire blue/brindle coloured plain clay tiles appropriate to the existing decorative bullnose ornamental tiled roof, hung on horizontally-fixed treated timber laths, with simple flush detailing at the junctions. The timber-framed construction and character of the original 17th century building remains legible.
- In Betley there are examples of existing gable wall protection employing overhanging verge/barge board details to a range of property styles and ages
- Whilst the visual appearance of the gable wall has been changed by the tile cladding the scale, form and proportions of the original building remain legible, and its overall historic and architectural character can still be interpreted as of 17<sup>th</sup> century domestic origins.
- The tile cladding has been installed such that it is reversible should it be desired or necessary to re-expose the truss on this elevation.

The application documents are available to view at the Guildhall using the "Track an application" facility on [www.newcastle-staffs.gov.uk/planning/1400355FUL](http://www.newcastle-staffs.gov.uk/planning/1400355FUL) and [www.newcastle-staffs.gov.uk/planning/1400356LBC](http://www.newcastle-staffs.gov.uk/planning/1400356LBC)

### **Key Issues**

The applications seeks planning permission and listed building consent for the retention of the external cladding to the upper part of the north west facing elevation of the property, which is a Grade II listed building, located within the Betley Conservation Area.

The cladding is on the upper part of the gable wall, and consists of Staffordshire Blue/ brindle coloured plain clay tiles hung on horizontally fixed timber laths, with simple flush detailing at the junctions.

The main issues to be considered in the determination of the planning application (14/00355/FUL) are:

- The design of the works and the impact on the significance of the listed building and the character and appearance of the conservation area

The main issue to be considered in the determination of the application for listed building consent (14/00356/LBC) is:

- The design of the works and the impact on the significance of the listed building

### **The design of the works and the impact on the significance of the listed building and the character and appearance of the conservation area**

Paragraph 56 of the NPPF highlights the importance that the Government places on good design and its role in achieving sustainable development. It states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

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

Policy B6 of the Local Plan indicates that the Council will resist alterations or additions to a listed building that would adversely affect its character or its architectural or historic features. Policy CSP2 of the Core Spatial Strategy also seeks to preserve and enhance the character and appearance of the historic heritage of the Borough. Policy B10 of the Local Plan seeks to preserve or enhance the character or appearance of Conservation Areas through appropriate design, retention of historically significant boundaries and protection of important views.

The works carried out are not considered to be visually harmful to the character of the Conservation Area and do not harm the overall significance of the listed building. Furthermore, the works are reversible should they need to be removed in the future, and this would not harm the appearance or damage the listed building in any way.

Overall it is considered that the works are acceptable and both full planning permission and listed building consent should be granted, as the works are considered to accord with the relevant policies of the Development Plan and NPPF.

On a final matter and in response to the comments of the Parish Council, English Heritage are a statutory consultee where an application affects the setting of a Grade I and Grade II\* Listed Building. As indicated above the property in question is a Grade II Listed Building and as such English Heritage has not been consulted.

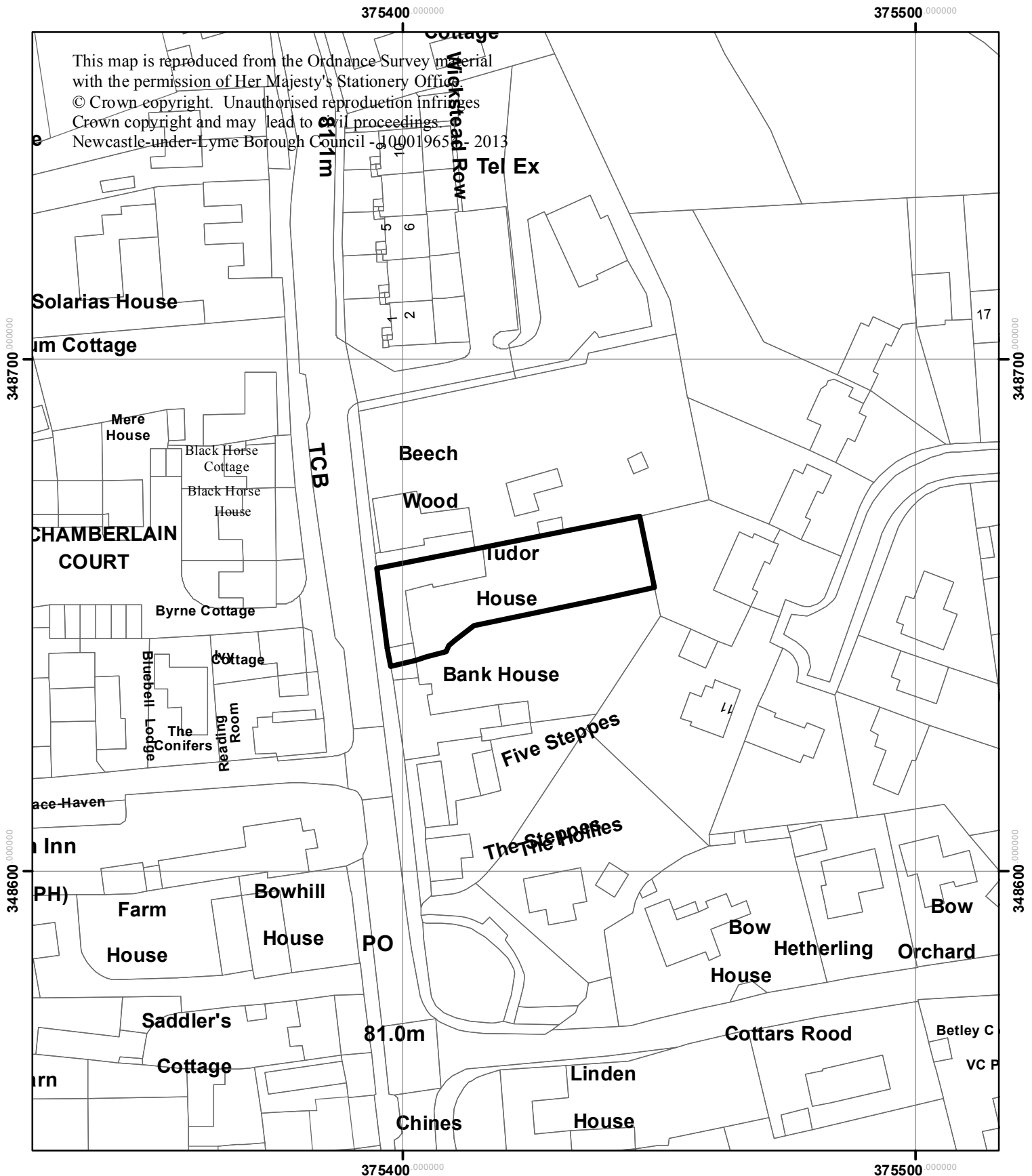
Background Papers

Planning File  
Planning Documents referred to

Date Report Prepared

21<sup>st</sup> July 2014

Tudor House, Main Road, Betley  
14/00355/FUL and 14/00356/LBC



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27 HARDINGSWOOD ROAD, KIDSGROVE  
MRS KATY STANWORTH

14/00453/FUL

The application is for full planning permission for the demolition of a house in order to extend the garden area of the adjacent dwelling.

The site is located within the urban area of Kidsgrove, and within the Trent and Mersey Canal Conservation Area, as defined on the Local Development Framework Proposals Map.

The application has been 'called in' to the Planning Committee by two Councillors who support the demolition of the cottage as long as it causes minimal impact on the local residents. The building to be demolished has been significantly renovated by previous owners and has lost most of its character. The building bows on one side and looks a little unstable. Local residents support the demolition as the area has always been overcrowded by properties. The demolition would increase light into surrounding properties. A large garden in this space would be aesthetically pleasing.

**The statutory 8 week determination period expires on the 9<sup>th</sup> August 2014.**

## **RECOMMENDATION**

**REFUSE** as the 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 has not been demonstrated that the building is incapable of beneficial use. As such is contrary to policy.

## **Reason for recommendation**

The demolition of this building within the Trent and Mersey Canal Conservation Area would be detrimental to the overall character and appearance of the designated Conservation Area. There would be no public benefit arising from the proposal, and it has not been demonstrated that the building is incapable of beneficial use. The proposal therefore conflicts with Policies B9, B10, B11 and B13 of the Newcastle-under-Lyme Local Plan and the aims and objectives of the National Planning Policy Framework 2012.

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

Pre application discussions were held with the applicant where policy concerns were highlighted. This is considered to be an unsustainable form of development and so does not comply with the provisions of the National Planning Policy Framework.

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

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026 adopted 2009

Policy ASP5: Newcastle and Kidsgrove urban neighbourhoods area spatial policy  
Policy CSP1: Design Quality  
Policy CSP2: Historic Environment  
Policy CSP3: Sustainability and Climate Change

Newcastle under Lyme Local Plan 2011

Policy B9: Prevention of harm to conservation areas  
Policy B10: The requirement to preserve or enhance the character or appearance of a conservation area  
Policy B11: Demolition in conservation areas  
Policy B13: Design and development in conservation areas

## Other Material Considerations

### Relevant National Policy Guidance:

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

### Relevant Planning History

#### 28 Hardingswood (adjoining property)

98/00817/FUL	Permitted	30.3.1999	Replacement Dwelling
99/00727/FUL	Permitted	6.12.1999	New boundary walls and amended garage position (garage not constructed)
11/00534/FUL	Permitted	19.12.2011	Replacement vehicular access
12/00096/FUL	Permitted	25.4.2012	Replacement vehicular access
13/00387/FUL	Permitted	25.6.2013	Single storey side extension

#### 27 Hardingswood (dwelling proposed to be demolished)

N13383	Permitted	10.7.1984	Alterations to form bathroom
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### Views of Consultees

The **Conservation Officer** – The area is designated as a Conservation Area. The area known as Hardingswood junction and Locks opened in 1831. It marks the top locks before the big descent into the Cheshire Plain. In the mid 19th century this area was fairly well built up with a tight grain down this lane. No 28, which is a new dwelling, replaces a row of terraces as shown on the OS first edition. Some of the buildings still remain, such as Hardingswood House, the Blue Bell pub which was typical in providing accommodation for boaters. This pub also provided stables and outbuildings and it is possible that no. 27 was a domestic building or a warehouse, which again was typical for storage of goods to transfer to rail, road or other means, serving this growing industrial town. This part of the canal is a relatively unique part of the canal, just before it joins the Macclesfield branch.

The Conservation Officer accepts that the building has lost some of original character, has been domesticated insensitively but nevertheless has retained its structure and its relationship with the canal. Many buildings along the canal are simple buildings with little embellishments. The Conservation Officer disagrees that the area would be improved by its demolition and describes the building even in its altered and rendered condition as not being detrimental to the character and appearance of the Conservation Area. It is a simple structure related to the canal and the historical development of the area and therefore it cannot be simply dismissed as having no significance, having townscape value along the edge of the canal with other historic buildings and contributing to views from and within the conservation area.

Further investigation is needed to better ascertain its former use which may have been warehousing or storage given its orientation gable end onto the canal. The NPPF (p.132) states that “great weight should be given to the asset’s conservation” and “loss should require clear and convincing justification” which is not very robust. Paragraph 133 requires a public benefit to be achieved to outweigh the loss or that the proposal meets a number of criteria. None of these can be met through this proposal. The domestic nature of no. 28 and any resulting garden and walls with gates etc are unlikely to reinforce the prevailing special character of the conservation area.

If the applicant has bought the site, removal of the dividing wall between the two properties and use of garden to no 27 will provide some extra amenity space for no. 28 without the need for demolishing the building and the building perhaps could be modified into a granny annex.

If minded to grant permission and perceive that policy objectives have been met, it is essential that prior to any demolition we record it historically and archaeologically to try to



understand more about this part of the canal and what it represented to the industrial development of the area.

**County Council Landscape Archaeologist** - The canal and its associated structures and buildings make a positive contribution to the local character and history of the wider landscape of this part of north eastern Staffordshire and therefore is in agreement with the comments and conclusions of the Borough Conservation Officer

However, should planning permission for demolition be granted and taking into account the contribution of the building to the local character and history of Hardingswood it is advised that a building recording survey be carried out prior to its demolition. This work should include a record of the layout, evidence of phasing, architectural detailing, and any surviving fixtures and fittings. This work would equate to a Level 2 survey as identified in the English Heritage volume entitled 'Understanding historic buildings: a guide to good recording practice' (2006).

The comments of the **Conservation Advisory Working Party** have been sought and will be reported.

### Representations

One representation has been received on the application and is summarised as follows:

- No outright objection to the proposal however demolition of the property would leave a gap in the building line, detracting from the aesthetic of the street scene. Subject to permission being granted this should be filled in a manner which is sympathetic to the fact that this has been designated a Conservation Area.
- The view of Hardingswood from a train on the Manchester line as it crosses the canal is particularly pleasing. It gives the impression of the small boating community that Hardingswood once was, and which is hoped would be retained.

### Applicant/Agent's Submission

The application is accompanied by 7 letters of support. The application is also accompanied by a Heritage statement which is summarised as follows:

- No 27 Hardingswood forms part of a complex of cottages and a new dwelling on the canal lane Hardingswood.
- It is served directly off Hardingswood and also off a subsidiary lane servicing other small cottages. It is considered that the cottage was probably at a sometime in the past 2 attached one up and one down canal workers cottages.
- The building has undergone extensive alterations to its fabric, the roof structure is modern, probably replaced within the last 15 years. The floors have artificial joists, the ground floors have been replaced and the external faces of the external walls have been rendered.
- No original features have been retained.
- The cottage is within the Hardingswood Conservation Area set on an island of developed land directly associated with the canal and its locks. It was probably built in the late 1800's associated with the building or management of the canal system. Constructed from common brick with the building has no architectural merit.
- The cottage has no architectural merit and contributes little to the nature and character of the conservation area.
- There are no features that warrant retention and the quality of the surrounding cottages and new dwelling will be considerably improved by its demolition.
- Its demolition is supported by all owners of the properties within the area surrounding Hardingswood.

The documents are available for full inspection at the Guildhall and on the Council's website [www.newcastle-staffs.gov.uk/planning/1400453FUL](http://www.newcastle-staffs.gov.uk/planning/1400453FUL)

## **Key Issues**

The application seeks planning permission for the demolition of a dwelling and the incorporation of the plot into the garden area of the adjoining property.

The property is located within the urban area of Kildsgrove and within the Trent and Mersey Canal Conservation Area, as defined by the Local Development Framework Proposals Map.

The main issue is considered to be the impact of the demolition of this property on the character and appearance of the Trent and Mersey Canal Conservation Area.

### **The impact of the demolition of this property on the character and appearance of the Trent and Mersey Canal Conservation Area.**

The National Planning Policy Framework (NPPF) states that Local Planning Authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, and in doing so should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

The NPPF goes on to state that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- The nature of the heritage asset prevents all reasonable uses of the site, and
- No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation, and
- Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible, and
- The harm or loss is outweighed by the benefits of bringing the site back into use.

Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Policy B9 of the Local Plan states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B10 of the Local Plan sets out the requirement to preserve or enhance the character or appearance of a conservation area, in terms of materials choices, size of development, protecting important views into and out of the area and impact on trees and important open spaces.

Policy B11 of the Local Plan states that consent to demolish a building or any part of a building in a Conservation Area will not be granted unless it can be shown that each of the following is satisfied:

- i) The building is wholly beyond repair, incapable of reasonably beneficial use, of inappropriate design, or where its removal or replacement would benefit the appearance or character of the area
- ii) Detailed plans for redevelopment are approved where appropriate
- iii) An enforceable agreement or contract exists to ensure the construction of the replacement building where appropriate

No evidence has been submitted in support of the application demonstrating that the building is in disrepair. The building appears to be in good condition and capable of being used for habitable purposes. The photographs submitted in the heritage asset statement illustrate the building is of sound construction and supports the case that the building is not wholly beyond repair, and is capable of reasonably beneficial use.

The supporting information describes the building as having no architectural merit and no features of interest and that the area would be improved by its demolition. Whilst it is

accepted that the building has lost some of original character through insensitive alteration, it nevertheless has retained its original structure and its relationship with the canal. The building has townscape value along the edge of the canal when viewed in the context of other historic buildings and contributes to views into and out of the conservation area and particularly from the canal and towpath. It is considered that the area would not be improved by the demolition of this building, as the building is not in any way detrimental to the character of the Conservation Area. It is a simple structure relating positively to the canal and the historical development of the area and therefore it cannot be simply dismissed as having no significance.

The site, following the demolition of the building, is proposed to be used for private domestic garden to the adjoining property. The end use proposed would not, therefore, result in any public benefit. In addition it is considered that the benefits to the occupier of the adjoining property through an increase in amenity space would not be so significant that it outweighed the harm that arises from the loss of a building that adds to the character of the area.

#### Conclusion

Overall, the proposed demolition of the property to create a private garden for the neighbouring dwelling conflicts with Policies B9, B10, B11 and B13 of the Local Plan and the aims and objectives of the National Planning Policy, and for this reason the application should be refused.

#### Background Papers

Planning File  
Planning Documents referred to

#### Date Report Prepared

17<sup>th</sup> July 2014

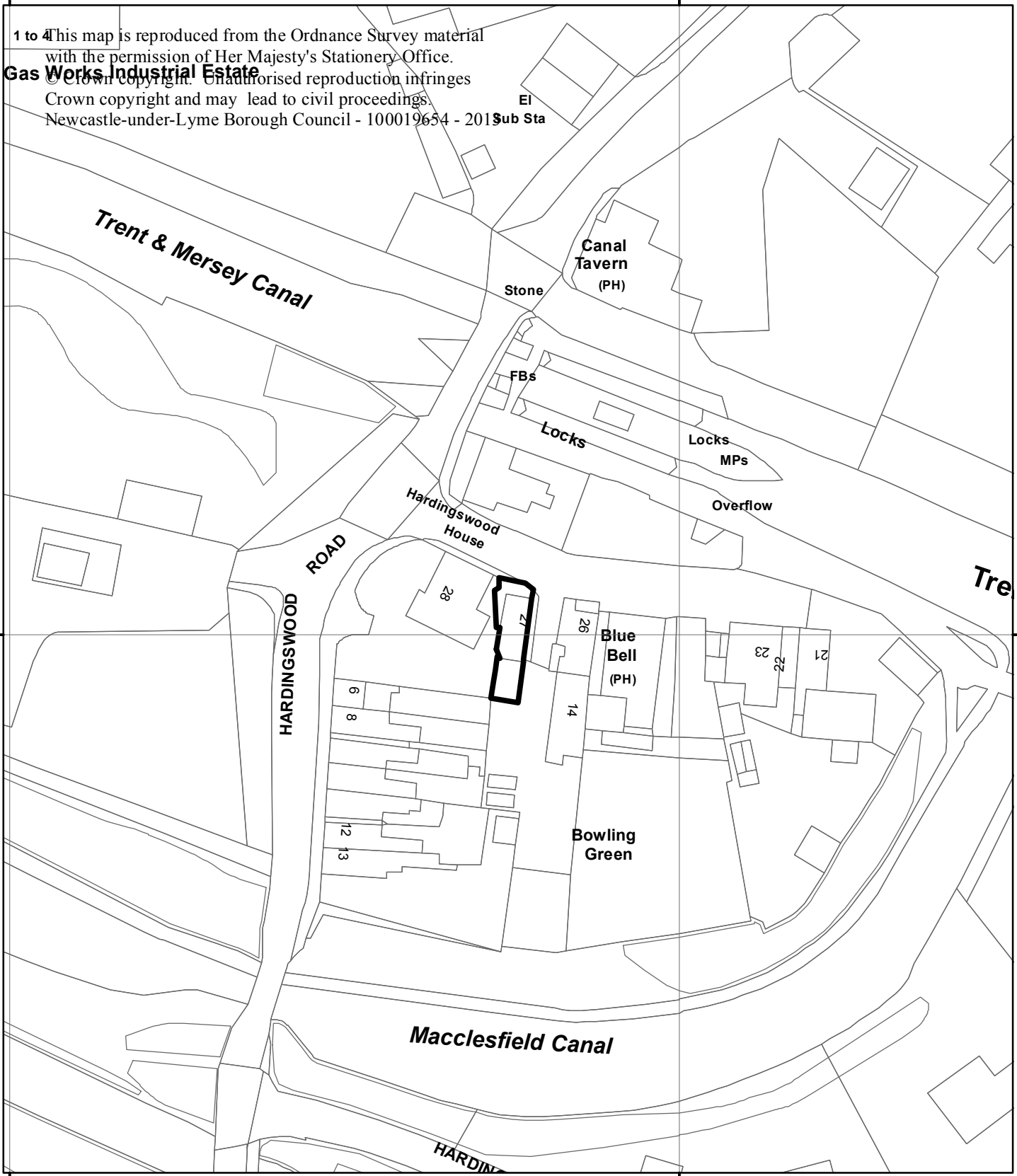
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**LAND OFF PEPPER STREET KEELE**  
**KEELE HOME LTD**

**13/00970/OUT**

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

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

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

**The 13 week period for the determination of the planning application expired on 21<sup>st</sup> March 2014. The applicant has to date agreed to extend the statutory period to the 12<sup>th</sup> August 2014.**

## **RECOMMENDATIONS**

### **A. Subject to**

**(i) the receipt and consideration of further advice from the District Valuer as to what affordable housing provision this development could support if the full education contribution is to be secured,**

**(ii) the applicant entering into a Section 106 obligation by 5<sup>th</sup> October 2014 to require:-**

- 1. A contribution of £387,449 towards school spaces and the sum being able to be adjusted should the development as built be for less than the full 100 units;**
- 2. Affordable Housing provision (the level of which to be recommended following the outcome of (i) above);**
- 3. The entering into of a Management agreement to secure the long term maintenance of the public open space and any play equipment provided to meet the needs of the residential development;**
- 4. A Travel Plan monitoring fee (the level of which to be recommended following the outcome of (i) above); and**
- 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.**
- 6. That a financial viability reappraisal be undertaken EITHER if the development has not been substantially commenced within a period members will be advised of, from the grant of this outline planning permission OR if a continual delivery of housing development is not thereafter maintained, and appropriate adjustments be made, on the basis of such reappraisal(s) to the level of affordable housing referred to in 4) above with a cap of 25% and a floor of the level of affordable housing referred to in 2) above;**

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

- 1. Submission and approval of reserved matters.**
- 2. Time limit for the submission and approval of reserved matters and for commencement.**
- 3. Reserved matter submission to be informed by principles within the submitted Design and Access Statement and set out in the Master Plan (drawing no. 14-019-SK1001 Rev D dated Feb 2014) 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 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 15<sup>th</sup> September 2014 of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that in the absence of such obligations the proposal fails to provide appropriate level of affordable housing which is required to provide a balanced and well functioning housing market, secure the on-going maintenance of on site open space provision, 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.

#### Reason for Recommendation

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

The scheme is considered acceptable in terms of impact on landscape, highway safety and trees. Subject to the imposition of suitable conditions and appropriate financial contributions, it is not considered that there are any material considerations which would justify a refusal of outline planning permission. Advice now received suggests that the scheme cannot support a fully compliant proposal (in terms of the amount of Section 106 contributions and affordable housing)..

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

Officers have worked with the applicant to address all issues of the site and the application is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

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

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

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP2: Spatial Principles of Economic Development  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets  
Policy CSP5: Open Space/Sport/Recreation  
Policy CSP6: Affordable Housing  
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt  
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy E11: Development of Employment Land for Other Uses  
Policy T16: Development - General Parking Requirements  
Policy T18: Development – Servicing Requirements  
Policy C4: Open Space in New Housing Areas  
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures  
Policy N4: Development and Nature Conservation – Use of Local Species  
Policy N12: Development and the Protection of Trees  
Policy N13: Felling and Pruning of Trees  
Policy N17: Landscape Character – General Considerations  
Policy N21: Area of Landscape Restoration

**Other material considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

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

Conservation of Habitats and Species Regulations (2010)

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

Supplementary Planning Guidance/documents

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

Space Around Dwellings (SAD) (July 2004)

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

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

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

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

### **Relevant Planning History**

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

### **Views of Consultees**

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

- They are committed to maintain the integrity of the Green Belt and believe that if this application is allowed it will have implications not only for the parish of Keele but for other Green Belt areas.
- The safest and best policy is to let the tip burn out.
- Recent ministerial statements indicates that failure to meet housing supply demands as no justification for building in the Green Belt and the Borough's own report makes clear it has already met its rural housing target.
- The proposed open space, given the foul state of the ground and the absence of a financial bond, could not be accepted by any public or charitable organisation.

- The Highway Authority do not address the width of footpaths along the whole stretch of the road; the narrow section of Pepper Street opposite Quarry Bank which is not wide enough for 2 large vehicles to pass;
- Public land has been added to the application site which would restrict sight lines along Pepper Street and remove an existing off road parking area thus increasing on road parking near to the dangerous junction of Quarry Bank; and lack of visibility at the junction of Quarry Bank road and Pepper Street.
- The submission of new material during the consideration of the application has made it very difficult for residents and their representatives to evaluate and comment upon the application.
- Whilst the Desk Top Study has been resubmitted it does not indicate that further ground-work investigations have been carried out, nor address the issue of the foul ground on the former marl hole site.
- The applicants remain silent on the size of the bond to cover liability in the event of work on remediating the burning tip being permitted, nor do they address who would pick up the bill in the event of subsequent gas migration.
- Who will pick up the Highway Authority and Education Authority bill?
- The proposal does not address Network Rail's concerns.
- Access to the public rights of way and clarification of the management of transport of various materials pertaining to the fire and contaminated land should be addressed in the submission.
- They are surprised that the recommendation of the Environmental Health Division has changed given that only two of its nine original requirements have been met by the applicant's consultant.
- If the recommendation is accepted by Committee the recommended conditions should be fulfilled before any building is permitted and this should be monitored by an independent consultant paid for by the developer as the Borough Council does not have the resources or expertise in-house.
- The bond should also cover the remediation of the tip and possible migration of contaminants from other parts of the site so that it addresses unforeseen and as yet not fully explored dangers on the site. If the Planning Committee is minded to grant permission for the development they are urged to establish the size, nature and limitation of a bond before permission is considered.
- The applicant appears to have accepted that the old marl hole is a potential hazard and recommends that the area be fenced off and as such this removes the provision of public open space from consideration as a very special circumstance.
- The Parish Council have demonstrated that the tip fire is slowly burning out. They are concerned that there have been deliberate acts of arson on the site which obscure the underlying improvement in the site.
- They fail to understand why the fire has become such a significant issue in the consideration of the officers, when during the last 8 years there have been no complaints or action taken. In particular they assert that there has been no serious investigation of the fire site, and recent arson acts have simply misled observers into thinking the fire is worse than it is.
- The Planning Committee is being asked to make a decision without all the necessary information being available, as the final report of the District Valuer has not been received.
- Objections have come from residents of Keele, Park Site and Silverdale and the overwhelming response has been to object to the proposed development.
- The boundary of the site should be adjusted to exclude the proposed public open space which even the applicant accepts can no longer be included in the development.
- No justification has been given for building on the greenfield portion of the site and as such this would be a very serious breach of national and local Green Belt policy (paragraphs 79, 80, 81, 109 and 116 of the National Planning Policy Framework).
- There is no public interest served by this proposal.
- Request that the full report of the District Valuer be made available to the public when it is received.

Upon consideration of the report to the Planning Committee meeting Keele Parish Council indicates that the key issues to be considered are:

- Unless very special circumstances (VSC) can be provide the application is contrary to policy. Two of the three VSC have been dismissed by Officers.

- Reports from qualified and chartered geologists show that insufficient groundwork surveys have been carried out to fully understand the risks associated with extinguishing the fire and remediating the land. The Council have made clear to residents in the past that the current situation presents no threat to human health, and will continue to improve as the fire burns itself out. Those living close to the site know that the situation has significantly improved over the years and the fire is no longer an issue. There is no public benefit and greater risk would be introduced by attempting to extinguish the fire which eliminates the remaining VSC.

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

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

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

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

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

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

Conditions relating to the following are recommended:

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

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

- The applicant is recommending that the development is supported by a Travel Plan which encourages the use of alternative modes of transport to the private car. This is welcomed,

however it is dependent on one of the residents volunteering and continuing to carry out the role of a Travel Plan Co-ordinator and continuing to do so. This causes concerns with regard to the long term implementation and function of such a plan.

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

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

The following conditions are recommended:

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

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

- Development shall not be commenced until such time as a scheme to limit the surface water run-off has been agreed.
- Development shall not be commenced until a scheme to manage the risk of flooding from overland flow of surface water on the proposed development has been agreed.
- Contaminated land conditions.
- Piling or any other foundation designs using penetrative methods shall not be permitted unless it can be demonstrated that there is no resultant unacceptable risk to groundwater.

- If during development, contamination not previously identified is found to be present at the site development to cease until a remediation strategy has been agreed.

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

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

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

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

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

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

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

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

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

The following conditions are recommended:

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

In addition a contribution for off site public open space should be secured at a rate of £2,943 per dwelling to be used at the Underwood Road play area and/or Ilkley Place, but they would be prepared to consider as an alternative on-site play provision provided any new playground and open space provision within the development is maintained through an appropriate management agreement.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

*Recommended Actions*

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

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

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

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

### **Representations**

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

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

- The development is not in keeping with its rural setting, and it is only suitable for an urban location.
- The site has been allowed to deteriorate and is an eyesore.
- There have been several breaches of planning control on the land.
- The development would cause devastation to the abundant wildlife around Pepper Street.
- The development will result in the loss of Green Belt land, and once it is gone it is gone forever.
- The Green Belt in this area is appreciated by an increasing number of walkers.
- A lack of a five year housing land supply does not justify development in the Green Belt.
- The gift of public open space on heavily polluted land does not justify development in the Green Belt.
- The site is in an unsustainable location, 2km from Keele Village centre by car.
- The sewerage station at Silverdale Road cannot accommodate the development.
- The application is before any logical, unified plan has been prepared identifying where development should take place. Until such a time the Green Belt should not be developed except for very small development.
- The County Council have requested an education contribution, but as the developer has indicated that there would be no contribution the full costs will have to be borne by the County Council.
- No affordable housing has been proposed on or off site. The financial viability report will need to be thoroughly and independently assessed to ensure the viability arguments are justified and a claw back mechanism secured if any increase value of the development occurs.
- Existing jobs would be lost as a result of the development, and none are proposed.
- No on site equipped children's play area is proposed.
- There are a number of discrepancies on the forms.
- If planning permission is granted it would set a precedent for other similar development on Green Belt and Greenfield land.
- Unmet housing need is unlikely to outweigh harm to the Green Belt and other harm to constitute very special circumstances justifying inappropriate development.
- The ability of the applicant to successfully put out the fire is questioned.
- The applicant has not explained adequately what will happen to the surface water runoff that would be created as a result of dousing the burning materials.
- The underground fire is on private land and therefore no tax/ratepayer should have to contribute towards remediation.
- The submitted additional information does not overcome concerns that have been expressed.
- The site as amended includes land in the ownership of the Highway Authority and it is necessary to serve notice upon the land owner.
- The site is in an isolated location and the development will increase the risk of crime and disorder.
- To improve the prospects of the occupiers interacting with the existing community at Keele an off-site play area should be provided in Keele at the expense of the applicant.
- The Ground investigation reports cover only those parts of the site on which it is proposed to build.
- It is questioned why it has been deemed unnecessary for an Environmental Impact Assessment to be made of this development.
- Since the application was submitted there have been several attempts to start fires on the area of the underground fire.
- The fire has subsided over recent years and the area is regenerating itself. This should not be seen as a very special circumstance to justify the development in the Green Belt.
- Many fires have been deliberately started on the burning mound deceiving people into believing that it is not burning out.
- Whilst the NPPF supports remediation of contaminated and unstable land, where appropriate, it is not appropriate in this case as the strategy of the Council, of giving time to heal the damaged land, appears to be successful.
- The revised position of the Environmental Health Division is incorrect and their comments should be treated with extreme caution given that their original concerns have largely been unaddressed and that the site investigations remain inadequate.

- It is essential that conditions are enforced and that conditions should include the requirement that any site investigations are evaluated by independent competent persons nominated by the Council, the choice being subject to public consultation.
- The development is not required to get a bus service reinstated as there is already a service.
- The Council has not undertaken any monitoring of the site and has not incurred costs and as such the potential to save money is not applicable.
- The submission contains a number of inaccuracies.
- There are grounds to suspect that the proposal is a Trojan horse for a student village which would exacerbate traffic problems at St Luke's Primary School and through the unsuitable streets of Silverdale.
- There is no evidence that the fire will last for two decades.
- The report does not assess the proportionality of the health and safety risks of the fire and does not compare it to the risks associated with HGVs accessing the site and the associated risks to the public or the retention of water bodies on the site and the fatalities that arise from unprotected water voids. As such the safety concerns of putting out the underground fire have not been considered in relation to the greater public safety risks of the development.

Five letters of support have been received indicating the following:

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

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

The applications are accompanied by a number of documents including:

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

- Thermal Imaging Report dated 11<sup>th</sup> July 2014
- Overview of Thermal Imaging

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

## **KEY ISSUES**

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

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

- Is the proposal appropriate or inappropriate development in Green Belt terms?
- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Does the proposed development have any significant adverse impact on the trees on the site?
- Would the proposed development have a significant adverse impact on the character and appearance of the area or the wider landscape?
- Would the proposed development have any impact upon highway safety, does the development promote sustainable travel choices and how does this need to be secured?
- Is affordable housing provision required and if so how should it be delivered?
- What impact would the development have upon the local school in terms of additional pupil numbers and how could this matter be addressed?
- Will appropriate provision of open space be made?
- Would there be any significant impact upon any protected species?
- What are the health and safety implications of the proposed development?
- Are there the required Very Special Circumstances to warrant setting aside Green Belt policies?
- Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

## **2.0 Is the proposal 'appropriate' or 'inappropriate' development in Green Belt terms?**

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

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

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

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;

- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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

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

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

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

3.2 CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. This site is not one of the targeted areas. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

3.3 CSS Policy ASP6 on the Rural Area states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

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

3.5 The LPA, by reason of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years worth of housing against its policy requirements (in our case set out within the CSS) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Borough is currently unable to demonstrate a five year supply of deliverable housing sites as the latest housing land supply figure is 3.12 years.

3.6 The principle of residential development on the site must therefore be assessed against paragraph 49 of the NPPF which states that *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

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

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

- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

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

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

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

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

4.2 NLP Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. Where, exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

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

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

5.1 CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. It states that new development should protect important and longer distance views of historic landmarks and rural vistas and contribute positively to an area's identity and heritage (both natural and built) in terms of scale, density, layout, use of appropriate vernacular materials for buildings and surfaces and access. This policy is considered to be consistent with the NPPF.

5.2 The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) in 10.1 indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

5.3 It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality. The elevations of new buildings must be well composed, well proportioned and well detailed and new buildings should respond to the materials, details and colours that may be distinctive to a locality.

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

5.5 CSS Policy CSP4 indicates that the location, scale, and nature of all development should avoid and mitigate adverse impacts (on) the area's distinctive natural assets and landscape character. This policy is considered to be consistent with the NPPF which states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

5.6 Members should note that applications for outline planning permission are required to include information on the *amount* of development proposed for each use referred to in the application. In the absence of any condition to the contrary any reserved matter would need to comply with and can refer to and draw support from the Design and Access Statement submitted with an application. Where an applicant indicates that the proposal is for up to a certain number of dwellings, in the event of outline planning permission being granted, unless a 'floor' or minimum number of units is imposed by a condition a reserved matters application seeking approval for any number of units up to the specified upper number would be in accordance with the outline planning permission. However if the Authority were to conclude that only a lesser number of dwellings would be appropriate, the appropriate course of action would be to refuse the application detailing the basis for this conclusion.

5.7 The indicative layout included on the submitted Master Plan indicates that the residential development will in part take place on the 'brownfield' parts of the site where the existing industrial buildings/activities take place although the proposed development would extend further into Haying Wood and towards Pepper Street than the current development does, although it is further set back at the corner of Pepper Street and Hollywood Lane (where the garage is). The area of the burning colliery spoil tip is shown to be planted with broad-leaved native woodland planting which will connect to the existing woodland at Haying Wood. The former landfill site within the overall site is shown to be public open space with additional woodland planting, hedgerow reinstatement and the creation of a meadow/flower glade.

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

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

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

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



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

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

6.1 This application is for outline planning permission with all matters of detail reserved for subsequent approval with the exception of the means of vehicular access to the application site from the existing highway network. The internal on site access arrangements are not part of the submission.

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

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

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

6.5 In terms of the sustainability of the site in transport terms, it is located less than 2km from Silverdale which has a number of services and facilities which could serve any new development. In addition it is approximately 2km from Keele with its, limited, services and facilities. Whilst this proposal is for outline planning permission and as such the detail of the final development is to be subsequently approved this submission indicates potential pedestrian/cycle links to the surrounding area. The links are shown to the existing bus stops on either side of Pepper Street which has a bus service.

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

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

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

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

7.1 CSS Policy CSP6 states that residential development within the rural area, on sites of 5 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

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

7.3 Paragraph 50 of the NPPF states that where they have identified that affordable housing is needed, local planning authorities should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. The Council's Developer Contributions SPD also indicates that affordable housing should be provided on the application site so that it contributes towards creating a mix of housing, but where it can be robustly justified, off site provision or the obtaining of a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted. The SPD suggests that one of the circumstances where offsite provision may be appropriate is where the Council considers that "the provision of completed units elsewhere would enable it to apply the contribution more effectively to meet the Borough's housing need".

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

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

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

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

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

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

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

- Necessary to make the development acceptable in planning terms
- Directly related to the development

- Fairly and reasonably related in scale and kind to the development

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

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

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

9.2 The indicative layout shown on the Master Plan, whilst showing a large area of publicly accessible open spaces and smaller, informal areas within the housing layout, does not include any formal equipped play areas to meet the needs of the development and as such the Landscape Development Section requested a financial contribution for capital development/improvement and ongoing maintenance to be spent off site at Underwood Road and Ilkley Place. They have subsequently reconsidered their position and in the light of policy C4 which envisages on site provision of Public open space on housing sites of this size they now indicated that the scheme could include such provision and provided its long term management is secured that would be an acceptable alternative to obtaining a financial contribution.

9.3 The applicant has during the application process confirmed that they will provide on site play provision within the development. In light of this there is no justification for a financial contribution for improvements to existing play areas off site. It will be necessary, however, to ensure that the future maintenance of any equipped play area and other open space areas within the development is secured through a S106 obligation.

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

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

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

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

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

#### *Remediation of Spoil Heap*

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

11.3 Further comments have now been received from EHD which re-evaluate the health and safety implications of the proposed remediation of the burning spoil heap following a site visit by representatives of EHD and PHE. The further comments indicate that at the site visit it was evident that the tip was still actively burning as there were smoke emissions visible from the tip as well as an acrid odour typically associated with a spoil heap fire, and that both the smoke emissions and the

odour became more pronounced following a short period of heavy rainfall that occurred during the visit. In addition there was evidence, when the site visit was undertaken, that persons had recently accessed the tip to recover wood or for other purposes via Hollywood Lane.

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

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

11.6 Keele Parish Council has expressed concern, as have objectors to the proposal, that existing underlying coal seams will catch fire as a consequence of undertaking the proposed remediation works. This risk is acknowledged by the Coal Authority but this has not led to them raising an objection, on the contrary they endorse the strategy adopted. They advise, however, that any excavation works into coal seams and/or mine entries would require a permit from them. Given the views that have been expressed by the Coal Authority it is considered that the risk of the underlying coal seam catching fire as a result of the works is low and this could be suitably addressed through the use of conditions.

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

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

#### *Contamination*

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

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

11.11 EHD advise that their comments in relation to the site investigation works undertaken to date remain largely unchanged, but at this stage without clear proposals on the development layout or

changes in site levels, an accurate assessment of the site investigation works undertaken to date cannot be made. They advise that in the circumstances the full contaminated conditions should be attached to any permission.

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

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

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

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

- Remediation of the burning tip – the submission indicates that the proposed development would ensure the full remediation of the burning tip as the residential development would ultimately fund it although the remediation would be undertaken in full before any residential development occurs. The submission acknowledges the conclusion of the WYG report in 2008 that the only option at that time was to let the fire burn out of its own accord, but indicates that due to the availability of adjacent land the option of excavating out and quenching the fire is now available.
- Housing supply – the submission highlights that up to 100 dwellings would represent a boost to the local housing land supply. It indicates that the majority of the housing would be erected on brownfield land and the site is a sustainable location and the development represents a logical sustainable site for housing and development which could go some way to protecting other more rural, and less suitable, sites.
- Community open space - The supporting information suggests that an area of 9.32ha will be donated to an organisation such as the Groundwork Trust or the Local Authority to be retained as public open space in perpetuity with an agreement that this land could not be built on in the future. The indication is that the development would result in landscape improvements but would also ensure the perpetual retention of the improved landscape for public enjoyment in years to come. The submission states that the landscape proposals would link to the newly improved public open space to the proposed housing development and to surrounding footpaths thereby delivering positive community benefit.

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

*Remediation of burning tip*

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

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

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

12.7 The issues arising from the tip fire are smoke and odour resulting in health and environmental risks; the loss of vegetation and the impact on visual amenity including the loss of protected trees; and the safety risk to those who access the site. A supplementary report will advise members of the conclusions of the recently received Thermal Imaging report.

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

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

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

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

#### *Housing supply*

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

#### *Community open space*

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

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

#### *Conclusion*

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

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

13.1 As indicated above, to comply with policy, certain contributions would be required. These are either financial contributions or ones in kind, but they are all capable of being costed, and they would

be considered by a developer to be “additional” costs. These are, in no particular order, the provision of affordable housing (an uncalculated but very significant value relative to the other contributions), travel plan monitoring fee, and provision for additional educational capacity. The financial contributions sought total £387,449 (or just over £3,874 per unit). This excludes the cost of the affordable housing provision.

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

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

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

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

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

13.7 Your officers have now received a letter setting out the final conclusions by the DVS, to be read with the original report. Certain adjustments have been made but the DVS has not been convinced, through the submission of sufficient evidence, that all of the costs and values identified by the applicant are justified. The DVS agrees that if 25% on-site affordable housing is secured the development would be non-viable. However the development would be viable if 20% of on-site affordable housing is secured, and if 15% was secured there would be £270,000 of funds available for financial contributions.

13.8 Any consideration of the issue of the level of Section 106 contributions has to be in the context of the National Planning Policy Framework (NPPF) which postdates the Developer Contributions SPD. The NPPF indicates that *“to ensure viability, the costs of any requirement likely to be applied to the development, such as requirements for affordable housing, standards, infrastructure, contributions or other requirements, should, when taking into account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable (para 173).*

13.9 The NPPF goes on to indicate that *“local authorities should take account of market conditions over time, and where appropriate, be sufficiently flexible to prevent planned development being stalled” (para 205).*

13.10 Every indication is that if the Council were to pursue the full amount of affordable housing and education contributions the development would not happen. Your Officer's view is that given the advice received from the DVS, there are sufficient circumstances here to justify accepting the development without achieving the full policy benefits of affordable housing provision within the development but securing the education contribution. The DVS has been asked the question what level of affordable housing could be secured in addition to the £387,449 education contribution that has been indicated is necessary to address the needs of this development and this figure will be reported (which will be less than 15%). This information will be reported.

Background Papers

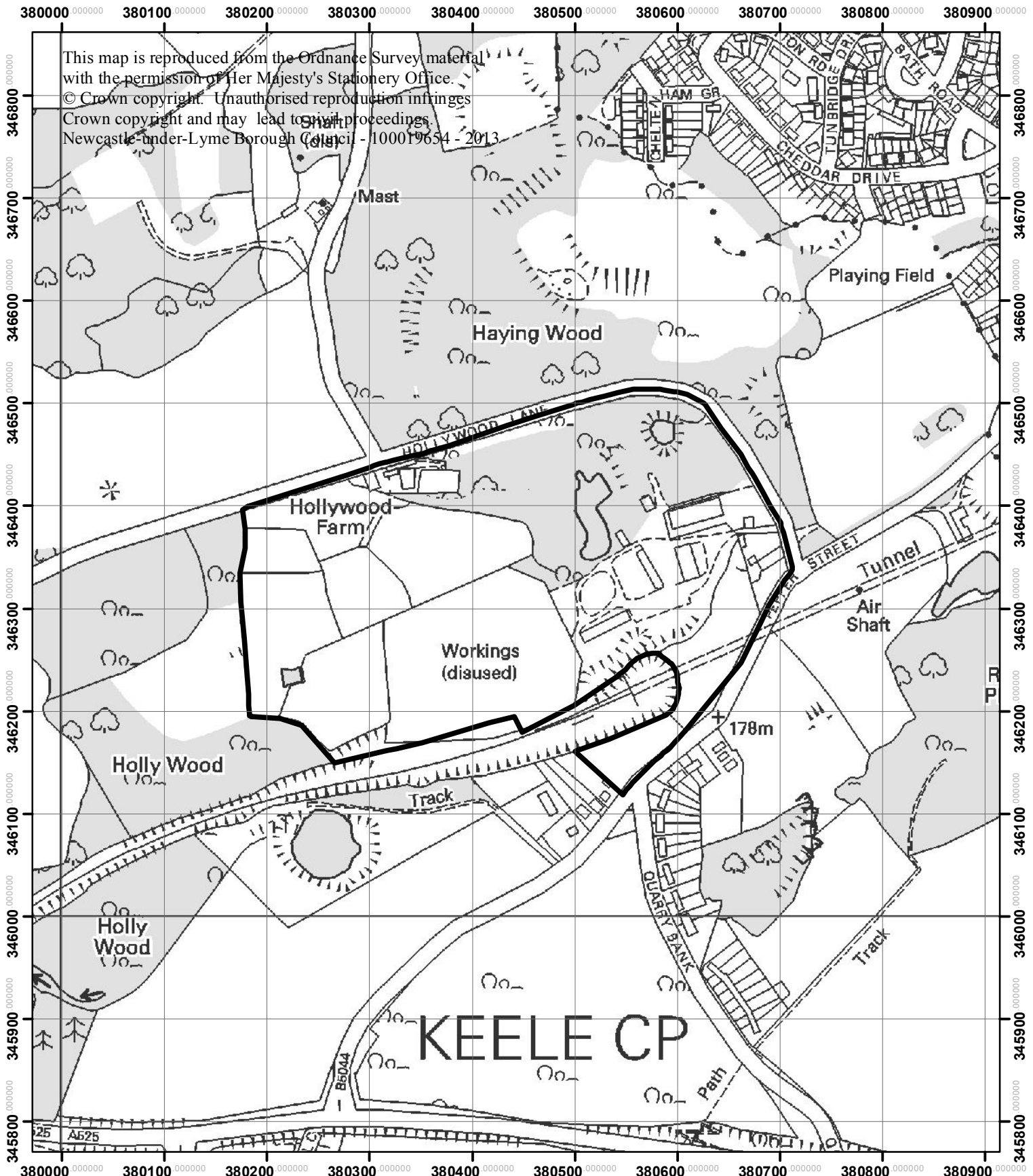
Planning files referred to  
Planning Documents referred to

Date report prepared

24<sup>th</sup> July 2014



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



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MINTON STREET/HIGH STREET WOLSTANTON  
VODAFONE LTD

14/00480/TDET

The application is for a determination as to whether prior approval is required for the siting and appearance of a replacement of the existing 15m high Vodafone and O2 column with a new 15m dual user monopole, the removal of 2 equipment cabinets and installation 1 new cabinet and ancillary works.

The site is within the Wolstanton District Centre 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> August 2014 the development will be able to proceed as proposed.**

## **RECOMMENDATION**

**(a) Prior approval is not required, however**

**(b) Should the decision on (a) be that prior approval is required the recommendation is to PERMIT.**

## **Reason for Recommendation**

It is considered that the development in this instance does not require the benefit of prior approval; further, 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 when compared to the existing telecommunications equipment on site. The proposal would also support the expansion of the communications network in this area. The proposal would therefore meet the guidance and requirements of the NPPF and it would also comply with policies B9 and T19 of the Newcastle under Lyme Local Plan as well as policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS).

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

CSP1: Design Quality

CSP2: Historic Environment

Newcastle under Lyme Local Plan 2011

T19: Telecommunications Development – General Concerns

T20: Telecommunications Development – Required Information

B9: Prevention of harm to Conservation Areas

## **Other Material Considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

## **Relevant Planning History**

01/00681/TDET1 Installation of telecommunications apparatus **Refused** but **allowed** at appeal

05/00225/TDET 15 m telecommunications 'streetworks' pole (to replace existing pole). **Refused** but **allowed** at appeal

10/00086/TDET Replacement of the existing 15 metre O2 streetworks column with a new 15 metres shareable installation accommodating 3 no antennae to be used by O2 and Vodafone. A small electrical meter cabinet and a Vodafone ground base equipment cabinet. **Refused**

10/00428/TDET The replacement of existing 15 metres O2 steelworks column with a new 15 metre shareable monopole accommodating 3no. antennae to be used by O2 and Vodafone **Refused**

14/00252/TDET The replacement of existing 15m high Vodafone and O2 column with a new 17.5m installation accommodating 6 antennae located on the pavement close to the junction of Minton Street and High Street, again to be used by Vodafone and O2. Two of the existing 4 equipment cabinets are to be removed and replaced by a further two equipment cabinets located next to each other. **Refused**

### **Views of Consultees**

Environmental Health - **NO OBJECTIONS**

#### Representations

One letter of representation has been received. This objects on the ground that the proposal would destroy the street scene as the 17.5 metre one proposed by application 14/00252/TDET would have done.

### **Applicant's submission**

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

- 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.
- The dimensions of the structure is the thinnest available to support the necessary equipment. The proposed pole would be of identical diameter to the existing one and would be painted grey which will help it to assimilate within the existing street scene. The site is to be connected to the national network by an underground link rather than by a transmission dish. These features would compromise technical performance but would minimise the visual impact of the development within the street scene.
- The proposed equipment cabinets are less than 2.5 cubic metres each and will be located alongside the new monopole. It should be recognised that, on its 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 ground based equipment would be painted green to blend into its environment.
- 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 having 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

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

The documents are available for inspection at the Guildhall and at [www.newcastle-staffs.gov.uk/planning/1400480/TDET](http://www.newcastle-staffs.gov.uk/planning/1400480/TDET)

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## **Key Issues**

The application is for a determination as to whether prior approval is required for the siting and appearance of a 15 metres dual user monopole to replace an existing 15 metre tall one and the installation of a new ground based radio equipment cabinet replacing two that are to be removed. The application follows the rejection by this Committee of Application 14/00252/TDET. That application sought to contain 6 antennas by double stacking them within the shroud, this double stacking resulted in the overall height of the installation increasing from 15 to 17.5 metres. The present installation does not seek to increase the capacity of the installation in this way, having only 3 single antennas with an overall height of 15 metres.

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

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

At paragraph 43 it goes on to 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 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 pavement close to the corner of Minton Street and High Street Wolstanton. The replacement monopole would be the same height and diameter as the existing one while the antenna shroud will increase by only 6 centimetres in diameter. One additional ground based equipment cabinet is also proposed within the grass verge, but two existing would be removed.

In view of the similarity of the monopole and reduction in the number of cabinets it is considered that that prior approval is not required for the siting and design of the proposal.

However, acknowledging that the decision of the Planning Committee may be that prior approval is required, this report will also address whether prior approval should be given.

### **If prior approval were to be required should it 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.

The proposed monopole is to be sited in the same location as the existing, which is within the Wolstanton District Centre adjoining Morris Square. It is in a prominent location, visible along High Street and Minton Street; and is 105 metres from the Wolstanton Conservation Area.

The proposal would be the same height with the same thickness monopole being used. The increase in should diameter from 48 to 54cm would be almost unnoticeable at 15 metres height. The installation is hidden from most of the Conservation Area by curvature of the street and buildings, it will have no more material impact upon it than the existing one. The proposal is almost a direct like for like replacement so would be no more prominent in appearance than the existing installation.

The proposed replacement ground based equipment cabinets would be sited on the pavement next to the monopole. The new equipment cabinet would be taller than the ones it replaces. Overall the proposal will result in a less cluttered appearance. The green colour scheme proposed is similar in nature to the equipment cabinets to be retained.

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 proposal is not considered to result in a significant and harmful impact to the visual amenity of the area and any harm would be outweighed by the benefits that arise from the improved network that the proposal would achieve. The proposal is therefore considered to comply with local and national telecommunications policies and that prior approval should be granted.

### **Background Papers**

Planning File referred to  
Planning Documents referred to

### **Date report prepared**

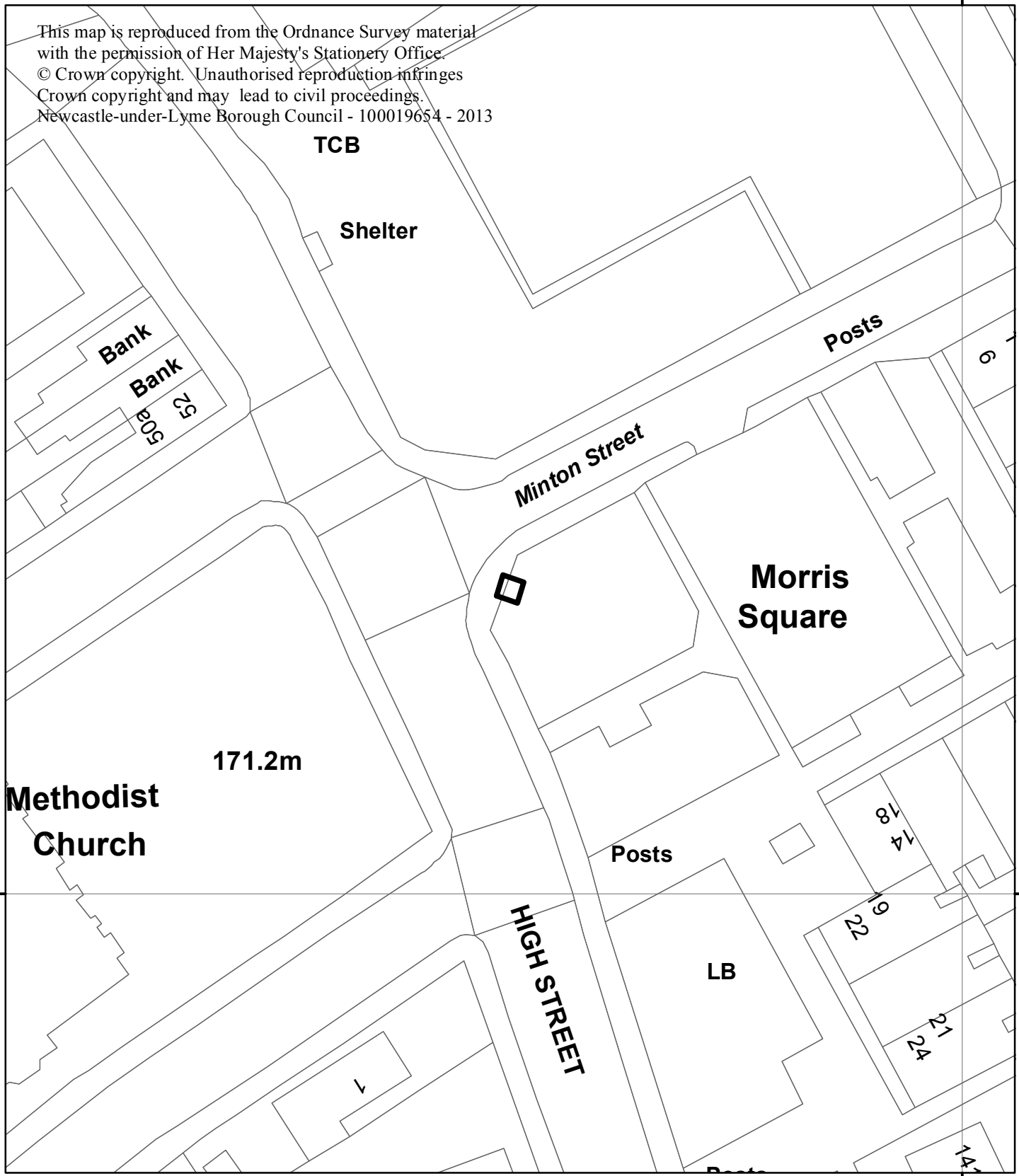
21<sup>st</sup> April 2014

Corner of Minton Street & High Street Wolstanton  
14/00480/TDET



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Newcastle-under-Lyme Borough Council - 100019654 - 2013



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**TRANSMISSION STATION, CAMP HILL, BALDWINS GATE**  
**TELEFONICA & VODAFONE LTD**

**14/00507/TDET**

The application is for a determination as to whether prior approval is required for the siting and appearance of an upgrade of existing telecommunications equipment involving the removal of 3 existing antennae and the installation of 6 new transmission antennae (measuring 1800mm in height), 2 transmission dishes (300mm in diameter) and ground equipment cabinet (measuring 800mm by 1200mm) to be installed within an existing cabin structure on the site. The overall height of the transmission station will remain unaltered (at just under 29 metres).

The proposal site lies within the open countryside and an Area of Landscape Maintenance (N19) as defined on the Local Development Framework Proposals Map.

**Unless a decision on this application is communicated to the developer by the 25<sup>th</sup> August 2014 the development will be able to proceed as proposed.**

**RECOMMENDATION**

- (a) **Prior approval is not required, however**  
(b) **Should the decision on (a) be that prior approval is required the recommendation is to PERMIT.**

**Reason for Recommendation**

The appearance and siting of the development would not have a significant impact upon the visual appearance of the surrounding landscape due to intervening woodland, land topography and also the scale of development involved. Therefore it is not considered prior approval for the development is required. Even if it were to be determined that the proposal does require the benefit of prior approval the development should proceed in the absence of any visual harm and also taking into account the weight given to proposals related to the expansion of the telecommunications network. The proposal accords with the requirements of the NPPF, 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.

**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)

Policy T19: Telecommunications Development – General Concerns  
Policy T20: Telecommunications Development – Required Information  
Policy N17: Landscape character – general considerations  
Policy N19: Area of Landscape Maintenance

**Other Material Considerations include:**

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

Relevant Planning History

03/00902/FUL	Installation of 3 antennae and 1 dish on existing telecommunications tower together with ground level radio equipment	Permitted	2003
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00/00190/TDET	housing and ancillary development Installation of 1 x 0.6m microwave dish on existing mast	Permitted	2000
99/00253/TDET	Determination on whether telecommunications apparatus requires prior approval	Permitted	1999
99/00335/TDET	Erection of two 1.2m dishes on existing radio mast	Permitted	1999
99/00405/TDET	Determination on whether telecommunications apparatus requires prior approval	Permitted	1999
94/00838/TDET	Installation of telecommunications apparatus	Permitted	1994

### Views of Consultees

**Environmental Protection** has no objections.

**Maer and Aston Parish Council** have until the 28 July to make comment. If no comments are received by that date it can be assumed the Parish Council has no objections to the development.

### 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 which is required in order to enable the expansion of the existing network capacity within the ST5 area.

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

The full documents are available for inspection at the Guildhall and on the Council's website [www.newcastle-staffs.gov.uk/planning/1400507TDET](http://www.newcastle-staffs.gov.uk/planning/1400507TDET)

### **KEY ISSUES**

The application is for a determination as to whether prior approval is required for the siting and appearance of an upgrade of existing telecommunications equipment involving the removal of 3 existing antennae and the installation of 6 new transmission antennae (measuring 1800mm in height) 2 transmission dishes (300mm in diameter) and ground equipment cabinet (measuring 800mm by 1200mm) to be installed within an existing cabin structure on the site. The overall height of the transmission station will remain unaltered (at just under 29 metres). The site is located within an area of landscape maintenance (Policy N19).

The National Planning Policy Framework (NPPF) at paragraph 42 details that "*advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.*"

At paragraph 43 it goes on to 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 upgrade of existing telecommunications transmission station which is around 29 metres in height. The overall height of the structure will remain unaltered. The transmission station is located in the middle of dense woodland containing tall trees and is obscured from wider public vantage points outside of the woodland. Due to the surrounding woodland and topography restricting views of the transmission station there is no significant wider landscape impact involved here. Therefore the prior approval for the siting and appearance of the development is not deemed to be required. However, acknowledging that the decision of the Planning Committee may be that prior approval is required, this report will also address whether prior approval should be given.

#### 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 impact on the visual amenity of the area. The design of the development is functional and involves the best environmental solution available making use of an existing lattice structure which is well hidden. The harm to the landscape and visual amenity of the area is minimal. There is no conflict with any Development Plan or national policies therefore prior approval should be granted.

#### Background Papers

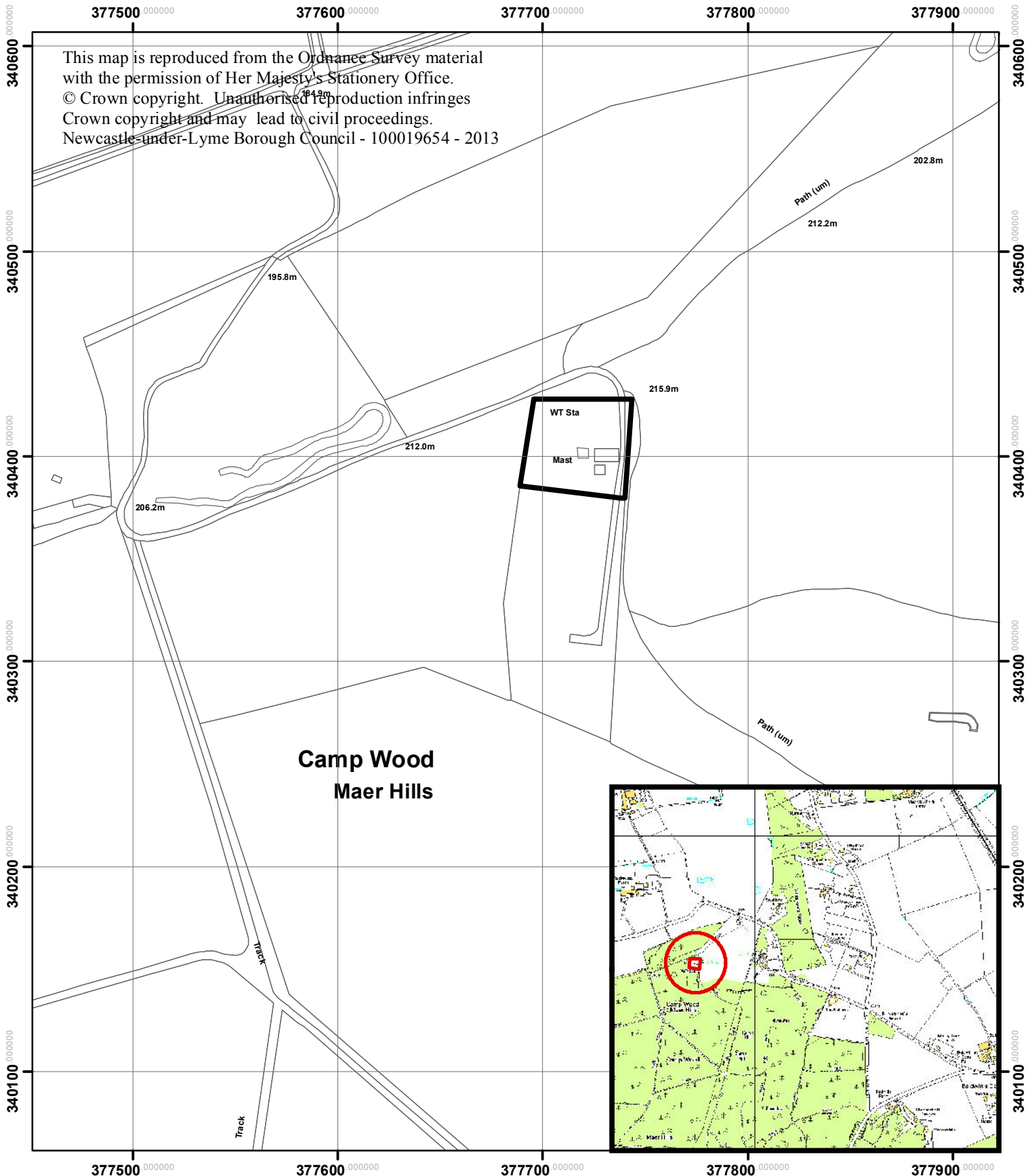
Planning File referred to  
Planning Documents referred to

#### Date report prepared

24<sup>th</sup> July 2014

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# Transmission Station Camp Hill Baldwins Gate 14/00507/TDET



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Newcastle-under-Lyme Borough Council - 100019654 - 2013

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**CAR PARK, SCHOOL STREET, NEWCASTLE**  
**NEWCASTLE BOROUGH COUNCIL**

**14/00418/DEEM3**

The application is for advertisement consent for the erection of 3 double sided free standing signs to display interchangeable poster hoardings each measuring 2.4 metres by 1.2 metres in dimensions. All signs will be erected on supporting poles and displayed 1 metre above ground level.

The signs are located within the confines of School Street car park to the rear of Jubilee2.

**The 8 week period for the determination of this application expires on the 28<sup>th</sup> August 2014.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Approved plans.**

**Reason for Recommendation**

There will be no harm to the visual amenity of the area or to public safety as a result of the advertisements applied for.

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

The proposal is considered to be a sustainable form of development and complies with the aims and objectives of the National Planning Policy Framework.

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

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

Policy CSP1 Design Quality

Newcastle-under-Lyme Local Plan 2011 (NLP)

Nil.

**Other Material Considerations**

National Planning Policy Framework (NPPF) (March 2012)

National Planning Practice Guidance (NPPG) (March 2014)

**Relevant Planning History**

None relevant.

**Views of Consultees**

**Highway Authority** standing advice applies and there are no objections.

**Representations**

None received.

### Applicant/agent's submission

The requisite application forms and plans have been submitted.

These documents are available for inspection at the Guildhall and via the following link

### **Key Issues**

The application is for advertisement consent for the erection of 3 free standing signs each measuring 2.4 metres by 1.2 metres in dimensions. All signs will be erected on supporting poles and displayed 1 metre above ground level. The signs are located within the confines of School Street car park to the rear of Jubilee2.

The NPPF states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

### Amenity

Two of the signs are positioned immediately to the rear of Jubilee2 and the third is to the rear of the exercise for less gym building which also backs onto the car park. The signs detailed within the application are proportionate in scale, appropriately designed and positioned in the context of neighbouring buildings and the immediate surroundings of the locality. The impact to the visual amenity of the area is acceptable.

### Public safety

The advertisements are not considered harmful to public safety by virtue of their scale or location. There are no significant public safety concerns to address.

### **Background Papers**

Planning File  
Planning Documents referred to

### **Date Report Prepared**

24 July 2014.



**CAR PARK, GOOSE STREET, NEWCASTLE**  
**NEWCASTLE BOROUGH COUNCIL**

**14/00420/DEEM3**

The application is for advertisement consent for the erection of 3 double sided free standing signs to display interchangeable poster hoardings each measuring 2.4 metres by 1.2 metres in dimensions. All signs will be erected on supporting poles and displayed 1 metre above ground level.

The signs are located on the boundary of Goose Street and Morrison's Supermarket car park.

The application site is adjacent to the Town Centre Conservation Area boundary (which is marked by the ring road) as specified on the Local Development Framework Proposals Map.

**The 8 week period for the determination of this application expires on the 28<sup>th</sup> August 2014.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Approved plans.**

**Reason for Recommendation**

There will be no harm to the visual amenity of the area or to public safety as a result of the advertisements applied for.

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

The proposal is considered to be a sustainable form of development and complies with the aims and objectives of the National Planning Policy Framework.

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

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

Policy CSP1 Design Quality

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy B14: Development in or adjoining the boundary of Conservation Areas

**Other Material Considerations**

National Planning Policy Framework (NPPF) (March 2012)

National Planning Practice Guidance (NPPG) (March 2014)

**Relevant Planning History**

None relevant.

**Views of Consultees**

**Highway Authority** standing advice applies and there are no objections.

## **Representations**

None received.

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

The requisite application forms and plans have been submitted.

These documents are available for inspection at the Guildhall and via the following link

## **Key Issues**

The application is for advertisement consent for the erection of 3 free standing signs each measuring 2.4 metres by 1.2 metres in dimensions. All signs will be erected on supporting poles and displayed 1 metre above ground level. The signs are located along the boundary of Goose Street and Morrison's Supermarket car park.

The NPPF states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

### **Amenity**

Ground levels associated to Goose Street car park are much lower than the elevated ring road adjacent and as a result would not have a significant impact to the appearance of the Conservation Area. The signs detailed within the application are proportionate in scale, appropriately designed and positioned in the context of neighbouring buildings and the immediate surroundings of the locality. The impact to the visual amenity of the area is acceptable.

### **Public safety**

The advertisements are not considered harmful to public safety by virtue of their scale or location. There are no significant public safety concerns to address.

## **Background Papers**

Planning File  
Planning Documents referred to

## **Date Report Prepared**

24 July 2014.

**APPEAL BY HERON FOODS LIMITED AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE RETENTION OF THREE AIR CONDITIONING CONDENSERS AND TWO REFRIGERATION CONDENSERS ON THE REAR WALL AT 10 CASTLE WALK, NEWCASTLE**

<b><u>Application Number</u></b>	<b>13/00977/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers 18<sup>th</sup> February 2014</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>1<sup>st</sup> July 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00977/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the Newcastle Town Centre Conservation Area. In dismissing the appeal, the Inspector made the following key comments:

- The appeal building is part of a parade of shops. There are already air conditioning condenser units and refrigeration condensers at the rear elevation of the building, which faces Market Lane.
- Market Lane partly acts as a service area.
- The Conservation Area Appraisal identifies 5 positive character areas and one negative character area. The appeal site is within a further character area which is described as neutral, although Castle Walk and Market Lane are referred to in examples of key negatives in the character area.
- The Council has recognised a need to minimise the effect of the increase in condenser units on buildings in Market Lane and has insisted that the Specsavers store look for alternative solutions.
- The removal of the cold room condenser unit and revised layout of the other existing units would be an improvement compared to the current appearance of the array of units at the rear elevation of No.10. Nevertheless, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area because of the number, size and prominence of the condenser units. The development is therefore contrary to local plan policy and CSS policies.
- The appellant has explained that the condenser units are the minimum number required to control ambient temperatures in the store for customer and staff welfare and to serve the remote refrigeration units. The need to operate these units is a material consideration to which some weight is attached.
- The Council also suggested that consideration be given by the appellant to mounting the units on the roof, in a position back from the rear elevation. The appellant has advised that it is not possible to position the units on the roof of the building due to its lightweight construction. However, no structural report has been submitted to demonstrate that this would be the case, or that it would not be possible to site at least one or two of the smaller units on the roof.
- It is concluded that the other material considerations submitted by the appellant and public benefits of the proposal are insufficient to outweigh the harm to the character and appearance of the Conservation Area and, on balance, the appeal should be dismissed.

**Recommendation**

That the decision be noted.

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**APPEAL BY ASPIRE GROUP AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF THE EXISTING GARAGES AND THE ERECTION OF 1 DETACHED BUNGALOW AT A GARAGE SITE BETWEEN 82 AND 88 HARRISEAHEAD LANE, HARRISEAHEAD.**

<b><u>Application Number</u></b>	<b>13/00714/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers 14<sup>th</sup> November 2013</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Date of Appeal Decision</u></b>	<b>9<sup>th</sup> June 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 1300714/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework. In allowing the appeal, the Inspector made the following key comments:

- The Council has not relied on any development plan policies in its decision notice and therefore the reasoning of the Inspector is based upon the provisions of the Framework. Paragraph 89 of the Framework says that the construction of new buildings in the Green Belt should be regarded as inappropriate. However, it lists certain exceptions. These include limited infilling in villages (bullet point 5) and the redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt (bullet point 6).
- The proposed bungalow, although of a similar sized footprint to the garages, would have a substantially greater volume and height. This additional volume and height would introduce an additional amount of built development to the site and consequently, it would have a materially greater impact on the openness of the Green Belt. Therefore, in respect of bullet point 6 of paragraph 89, the Inspector considered that the proposal would be inappropriate development.
- Turning to bullet point 5 of paragraph 89, The Council describes Harriseahead as a village but it says that the site is not within this village but is located within a linear spine of housing. The Council did not provide any policies defining the boundary of the village.
- The "linear spine" is essentially a continuous line of development which extends from the centre of the village where services are located. The Council agrees that the site is within a sustainable location and that there are a number of services and facilities in the area. Given the relatively close proximity of the site to the centre of the village and the fact that it is connected to the village, it appears that the site is within the village. Therefore, the proposal represents infill within an existing village and the Inspector concluded that the proposal would not be inappropriate development and as such, very special circumstances do not need to be demonstrated.
- The Inspector notes the neighbour's concern in relation to car parking but the Local Highway Authority has no objection to the scheme and therefore the Inspector had no reason to believe highway safety issues would arise. The Inspector also considered the concerns regarding privacy of the neighbour's rear garden but did not consider that the siting or design of the proposed dwelling would lead to an unreasonable amount of overlooking.

**Recommendation**

That the decision be noted.

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**APPEAL BY MR & MRS CORNES AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE OF A BARN INTO AN ENERGY EFFICIENT FAMILY HOME INCLUDING THE REMOVAL OF AN EXTENSION AND REDUNDANT PORTAL FRAME BARN AND THE ADDITION OF A SMALL REAR EXTENSION AND MULTIPLE USE SMALL OUTBUILDING AT GRANGE FARM, SCHOOL LANE, ONNELEY, CREWE**

<b><u>Application Number</u></b>	<b>13/00739/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers 19<sup>th</sup> November 2014</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Date of Appeal Decision</u></b>	<b>8<sup>th</sup> July 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00739/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be whether any adverse impacts of the appeal proposals would significantly and demonstrably outweigh the benefits. In dismissing the appeal, the Inspector made the following key comments:

- It is apparent that a five-year supply of deliverable housing land cannot be identified in the area. In these circumstances the National Planning Policy Framework (the Framework) states that local policies on housing supply should be considered to be out of date (para 49).
- The contribution that a single dwelling would make towards meeting the shortfall would be very small. Nonetheless, the Framework establishes a presumption in favour of sustainable development, which for decision-taking when relevant policies are out of date means applying the test of whether any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (para 14).
- The existing buildings currently form part of a farmstead consisting of traditional brick and tile buildings and portal buildings of a later period. The appellants' unchallenged evidence indicates that the buildings in question are redundant for agricultural purposes and that the main building is structurally sound and capable of conversion.
- Onneley is a small settlement which, based on observations when visiting the site, has very few services. Beyond Onneley the nearest settlements are Madeley to the east and Woore to the west. Both of these villages are larger than Onneley and together they have a range of services which include primary schools, a secondary school, shops, community buildings and pubs.
- It is concluded that Onneley does not amount to a sustainable community with any significant services and, other than via use of private motor vehicles, it has relatively poor access to services and facilities elsewhere.
- Paragraph 55 of the Framework says that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Isolated homes should be avoided unless there are special circumstances such as where the re-use of a redundant or disused building is involved and it would lead to an enhancement to the immediate setting.
- The 'special circumstances' cited in that paragraph indicate that the Framework envisages that the conversion of a redundant barn could be acceptable even if it were not sustainable development.
- The Framework establishes a presumption in favour of sustainable development, which it identifies as having economic, social and environmental dimensions.
- Significant weight is given to the reuse of the existing building including in terms 'the economic capital of the site' and making 'use of the embodied energy within the barn', and to the application of 'best green practice' to produce a 'low carbon and low energy dwelling'. Only very limited weight is given to other matters identified in the appellant's evidence containing sustainable development.

- The agricultural buildings and structures which would either be converted or demolished sit comfortably within the farmstead and are typical of what one would expect to find in this context both as they appear now and as they might appear in the future if they were to be allowed to deteriorate. Consequently, bearing in mind that the site is not particularly prominent, the benefit of any such improvement would be limited. Nonetheless, the scheme would lead to some enhancement to the immediate setting of the building in the terms of paragraph 55 of the Framework.
- The adverse effect that the proposal would have in terms of its reliance on use of the private motor vehicle to access day to day services weighs against the appeal proposal. However, it would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole. In these circumstances, planning permission should be granted

### **Recommendation**

That the decision be noted



## Report on Open Enforcement Cases

### Purpose of the Report

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

### Recommendations

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

### **Background**

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

In the last quarter a further 36 new cases have been reported, slightly lower than the previous quarter (43). The number of open cases stood at 207 at the end of the quarter (23 less than at the end of the last quarter).

### **Conclusions**

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

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

### **Current Outstanding Enforcement Cases**

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

#### ***Current Enforcement Status***

Year	Total	Open	C1	C2	C3	BOC	L	M	H
2014	82	46	2	33	11	-	-	-	-
2013	219	60	7	41	12	-	-	-	-
2012	229	34	10	16	8	-	-	-	-
2011	204	12	2	7	3	-	-	-	-
2010	206	9	2	6	1	-	-	-	-
2009	233	11	-	6	2	1	-	1	1
2008	276	11	-	-	-	-	3	8	-
2007	353	6	-	-	-	-	1	4	1
2006	280	6	-	-	-	-	2	3	1
2005	227	3	-	-	-	-	-	1	2
2004	252	1	-	-	-	-	1	-	-
2003	244	1	-	-	-	-	-	1	-
2002	247	5	-	-	-	-	-	2	3
2001	204	2	-	-	-	-	-	2	-
2000	219	-	-	-	-	-	-	-	-

Open Cases **207**  
(inc Backlog)

Previous Quarter 230

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

Officers will continue to make progress in tackling the backlog, whilst maintaining a manageable reservoir of new/existing cases at a sustainable level. A number of the above cases have associated pending planning applications awaiting determination (3 as of 2<sup>nd</sup> July 2014).

1 new high hedge compliant has been received in the last quarter.

**Date report prepared**

2nd July 2014

Planning Committee 22<sup>nd</sup> April 2014

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

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

The two cases that were identified as being closed within the report to the Planning Committee meeting on the 22<sup>nd</sup> April 2014 last has been removed from the agenda. Two cases have been added since the previous report. Details of each case, and the progress made within the last Quarter, and the target for the next Quarter are contained within the attached Appendix.

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

## RECOMMENDATION

**That the information be received.**

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
12/00193/207 C2	19 Biddulph Road, Harriseahead, ST7 4LB  Unauthorised extension of residential curtilage and erection of summerhouse/ garden shed	26.02.2013	<p>The breach of planning control was identified by Officers following an enquiry from a prospective purchaser of 19 Biddulph Road. Site inspections confirmed that land to the rear of the properties had been enclosed and utilised as residential gardens without the benefit of planning permission. Officers advised that the submission of an application would be unlikely to be supported.</p> <p>Planning permission was applied for retrospectively under application 12/00780/COU for the change of use of agricultural land to garden land at 17 and 19 Biddulph Road. The application was refused. Officers wrote to the applicants on 26<sup>th</sup> February 2013 to seek a resolution on site and timetable for compliance prior to the service of any notice. At a member's request the matter was reported to Planning Committee on 26<sup>th</sup> March 2013 The Committee resolved to invite a new application for the change of use of the land to be submitted within 6 weeks.</p> <p>A joint application for 17 and 19 Biddulph Road was refused at the Planning Committee meeting on the 4<sup>th</sup> June on the grounds that the authority did not consider, in respect of the garden of 19 Biddulph Road, that the required very special circumstances existed that clearly outweigh the harm to the Green Belt and the landscaped. Additionally it was resolved that the Head of Legal Services be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council appropriate action and proceedings.</p> <p>An enforcement notice, dated 6<sup>th</sup> September, was served which was due to take effect on 16<sup>th</sup> October. An appeal was been lodged and Planning Inspectorate has confirmed that it was to be considered at a Public Inquiry on 3<sup>rd</sup> June. On 23<sup>rd</sup> May notification was received that the appeal had been withdrawn and as such the notice took effect on that day. The three month compliance period expires on 23<sup>rd</sup> August.</p>	Site inspection to establish that the notice has been complied with

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
09/00230/207 C3	Newcastle Auto Centre Albany Road Newcastle Under Lyme	10/12/2013	<p>Investigations have established that an unauthorised extension has taken place at the premises resulting in the loss of parking spaces which were required to be retained by condition of planning permission (06/00616/FUL). A retrospective application was invited on more than one occasion and whilst indications suggested that such an application would be submitted it was never received. Following consultation with the Highway Authority who raised highway safety concerns it was concluded that it was expedient to take enforcement action.</p> <p>An enforcement notice was issued, dated 11<sup>th</sup> December 2013 which takes effect on 17<sup>th</sup> January 2014. The notice requires the removal of part of the extension that is unauthorised and implement and develop in accordance with and pursuant to the conditions contained with planning permission 06/00616/FUL or the removal of the extension and reinstatement of the land to its previous condition by 17 July 2014.</p> <p>An appeal against the enforcement notice was lodged with the Planning Inspectorate on 09 January 2014. A hearing date has been scheduled 31<sup>st</sup> July 2014</p>	Await outcome of appeal.
14/00014/207 C2	Tadgedale Quarry, Mucklestone Road, Loggerheads	22/04/2014	<p>Following the refusal of a retrospective application for a building at the established lorry park and haulage yard at the Planning Committee meeting of 3<sup>rd</sup> April 2014, at the following meeting of Committee it was resolved to authorise the Head of Legal Services to issue enforcement and all other notices to take and institute on behalf of the council all such action and prosecution proceedings for the removal of the building from the site with a compliance period of 1 month.</p> <p>Instructions have been sent to Legal Services who are preparing a notice in accordance with the resolution.</p>	Issue enforcement notice.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
Page 18 13/00056/207	Land at Doddlespool, Main Road, Betley	15.07/14	<p>At the Planning Committee meeting of 15<sup>th</sup> July 2014 it was resolved that should an planning application not be received by 31<sup>st</sup> July 2014 that the Head of Legal Services be authorised to issue enforcement and all other notices to take and institute on behalf of the council all such action and prosecution proceedings for the following:</p> <ul style="list-style-type: none"> <li>a. Removal of the industrial skips, fuel tank, machinery and a portakabin within one month from the date of the notice, and</li> <li>b. Restrictions on the vehicle movements to and from the site (details of which will be reported) to limit the impact on highway safety and residential amenity levels.</li> <li>c. All activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas shall cease after a period of no more than 3 years.</li> <li>d. No soil shall be imported onto the site</li> </ul>	Send instructions to Legal Services if a valid planning application is not received and issue enforcement notice.

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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By virtue of paragraph(s) 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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