

# Public Document Pack

**Date of meeting** Tuesday, 18th November, 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 - 6)  
To receive the minutes of the previous meeting.
- 4 **Application for Major Development - Blackburn House, The Midway, Newcastle under Lyme; Morston Assets Ltd and Ladson Keele Ltd/ADS Structural; 14/00778/COUNOT** (Pages 7 - 12)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - CLOUGH HALL TECHNOLOGY COLLEGE, FOURTH AVENUE, KIDSGROVE; STAFFORDSHIRE COUNTY COUNCIL; 14/00770/CPO**  
Report will be sent to follow.
- 6 **Application for Minor Development - Sandfield House, Bar Hill, Madeley; Mr David A.C Barker; 14/00684/FUL** (Pages 13 - 20)
- 7 **Application for Minor Development -Land to rear of Grindley Cottage, Church Lane, Betley; Mr and Mrs M Cox/Mr T R Tew; 14/00700/FUL;** (Pages 21 - 30)
- 8 **Application for Minor Development - Land South of Field Farm, Church lane, Betley; Hallmark Power Ltd; 14/00636/FUL** (Pages 31 - 44)
- 9 **Application for Minor Development - Ramsey Road Community Centre, Cross Heath; Mrs Gillian Williams; 14/00748/FUL** (Pages 45 - 50)
- 10 **Application for Minor Development - Keele Driving Range and Driving Shop; CTIL/WHP Ltd; 14/00813/TDET** (Pages 51 - 56)
- 11 **Appeal Decision - Slacken Lane, Butt Lane** (Pages 57 - 60)
- 12 **Appeal Decision - Land Adjacent to 48 High Street, Rookery** (Pages 61 - 62)

**13 Half Yearly Report on Development Management and Enforcement 2014/15 Performance (Pages 63 - 68)**

**14 Quarter 2 Report on Open Enforcement Cases (Pages 69 - 70)**

**15 Quarter 2 report on Cases where Enforcement Action has been Authorised (Pages 71 - 74)**

**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 paragraph 5 in Part 1 of Schedule 12A of the Local Government Act 1972.

**17 Quarter 2 Report on Cases where Enforcement Action Has Been Authorised. (Pages 75 - 76)**

**18 URGENT BUSINESS**

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

**Members:** Councillors Baker (Chair), Mrs Bates, Becket, Mrs Braithwaite, Cooper, Fear, Mrs Hambleton, Mrs Heesom, Northcott, Proctor (Vice-Chair), Miss Reddish, Mrs Simpson, Waring, Welsh 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, 28th October, 2014

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

Councillors Mrs Bates, Mrs Braithwaite, Cooper, Fear, Mrs Hambleton, Mrs Heesom, Northcott, Proctor, Miss Reddish, Mrs Simpson, Waring, Welsh and Williams

**1. DECLARATIONS OF INTEREST**

Councillor Mrs Sandra Hambleton declared an interest in application number 14/00705/FUL as a Member of the Staffordshire and Stoke on Trent Fire Authority.

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

**Resolved:-** That the minutes of the meeting held on 7 October, 2014 be agreed as a correct record.

**3. APPLICATION FOR MAJOR DEVELOPMENT - TESCO STORE, LIVERPOOL ROAD. KIDSGROVE; TESCO/DPP/ 14/00637/FUL**

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

- (i) Description of terms of consent being granted and confirmation that other conditions of 96/00178/FUL are not amended by the consent
- (ii) List of plans and document referred to in decision
- (iii) No use of service yard for deliveries between midnight and 6 a.m. the next day
- (iv) Recommendations within the Environmental Noise Assessment to be implemented.
- (v) Refrigerated motors to be turned off prior to vehicles entering the site and back on once they have left the site
- (vi) Vehicle delivery route option involving no reversing movements to be used
- (vii) Submission and approval of management plan to ensure pedestrian safety maintained

**4. APPLICATION FOR MAJOR DEVELOPMENT - LAND AT DODDLESPOOL, MAIN ROAD, BETLEY; MR MARK OULTON; 14/00610/FUL**

Councillor David Loades spoke on this application as the County Councillor for the Newcastle Rural Division.

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

- i) Development to be completed in accordance with approved plans.
- ii) Restriction on hours of operation to 8am to 4pm on weekdays only.
- iii) 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 to cease by 1 June, 2015.
- iv) Any material deposited in the area hatched blue on the attached plan shall be moved to an appropriate location within the site. The appropriate area shall be agreed in writing with the LPA within one month from the date of the decision and the material moved to that location within one month of that approval.
- v) Submission of dust mitigation measures within one month from the date of the decision and implementation for the duration of the development.
- vi) Submission of appropriate signage, speed restriction, resurfacing and maintenance details for 10 metres rear of the carriageway edge, road cleaning and access widening details within one month from the date of the decision and full implementation within one month of that approval.
- vii) Removal of portacabin, commercial trailer/cabin and screening/processing machinery within one month from the date of the decision
- viii) No industrial skips or fuel tanks shall be brought onto the site unless agreed with the LPA
- ix) Lorries entering and leaving the site shall not exceed 10 per day (10 lorries in and 10 lorries out)
- x) Submission of information on the impact of the development on Betley Mere and implementation of any identified mitigation measures
- xi) Submission of details for approval regarding the amount of peat and top soil to be integrated into the existing unit and locations.
- xii) No peat to be exported
- xiii) No soil, railway ballast or other material shall be imported onto the site at any time.

**5. APPLICATION FOR MAJOR DEVELOPMENT -ETRURIA VALLEY PHASE 2A, FORGE LANE, ETRURIA; STOKE ON TRENT REGENERATION LTD/RPS PLANNING; 348/215 (SOT REF 57466/RES)**

**Resolved:-** That the City Council be informed that the Borough Council has no objections to the proposed development.

**6. APPLICATION FOR MINOR DEVELOPMENT - LAND ADJACENT TO MARKET DRAYTON ROAD, LOGGERHEADS; SSFRA/CALDERPEEL ARCHITECTS; 14/00705/FUL**

Councillor David Loades spoke on this item as Ward Councillor

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

- (i) Variation of condition 1, which lists the approved plans, by substitution of the amended site plan that shows the location of the substation.

- (ii) Additional landscaping around the substation to include evergreen species.
- (iii) All other conditions of 12/00499/REM shall continue to apply.

**7. APPLICATION FOR MINOR DEVELOPMENT - 1 LANSDALL AVENUE, WOLSTANTON; FOXALL/BDS SURVEYORS - PETER PALMER; 13/00833/FUL**

Members were informed that this application had been withdrawn.

**8. APPLICATION FOR MINOR DEVELOPMENT - SANDFIELD HOUSE, BAR HILL; DAVID BARKER/CROF ARCHITETURE; 14/00684/FUL**

Councillor David Loades spoke on this application as the County Councillor for the Newcastle Rural Division.

**Resolved:-** That the application be deferred to enable the applicant to explore alternative options for providing a safe access within the existing curtilage.

**9. PLANNING PEER REVIEW**

Consideration was given to a report requesting Members comments on a proposed Action Plan to be considered by Cabinet to address the recommendations of the Planning Peer Review Team.

Members expressed their wish to inform Cabinet of the views of the Committee in relation to whether the action plan should be submitted for additional scrutiny to the appropriate scrutiny committee.

A vote was taken with 7 votes in favour and 8 votes (including the casting vote of the Chair) against additional scrutiny of the action plan.

**Resolved:-** (i) That it be recommended to Cabinet that the proposed Draft Action Plan be agreed.

(ii) That training for both members of the Planning Committee and officers be provided on local finance considerations (an amended action with respect to recommendation 5).

(iii) That guidance be provided to both Parish Councils and the public on the status of local finance considerations in the determination of planning applications ( a new action with respect to recommendation 5).

(iv) That Cabinet be informed that the Planning Committee resolved unanimously that it is of the view that the Action Plan should not include consideration of introducing making call-ins subject to the Chair's approval (a deletion of an action with respect to recommendation 9).

**10. HALF YEARLY SECTION 106 REPORT**

Consideration was given to a report advising Members of the planning obligations which had been secured for the first half of this year, works that had been funded in part or whole by planning obligations and compliance with their requirements.

**Resolved:-** (i) That the report be received.

(ii) That the Head of Planning and Development continue to report on a half-yearly basis to the Planning Committee on planning obligations which have been secured over the preceding six months, works that have been funded during that period in whole or in part by planning obligations and compliance with their requirements.

(iii) That the next report referring to the period April, 2014 to September 2014 be submitted to the Committee before the end of 2014.

**11. LOCAL REGISTER REVIEW**

Members considered a report on the updated Register of Locally Important Buildings and Structures following the 2014 review. Seventeen buildings and structures were proposed to be added to the Register.

**Resolved:-** That the proposed additions to the Register, as set out in the report, be agreed.

**12. APPEAL AND COSTS DECISION - BIDDULPH ROAD**

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

**13. BETLEY HALL GARDENS - CONFIRMATION OF A TPO**

**Resolved:-** That Tree Preservation Order No 159 (2014), Betley Hall Gardens be confirmed as made and that the owners of the tree be informed accordingly.

**14. APPLICATION FOR FINANCIAL ASSISTANCE (HBG) FROM THE CONSERVATION AND HERITAGE FUND - KEELE WAR MEMORIAL**

**Resolved:-** That a grant of £237 for the repair and repointing of the stonework plinth at the war memorial be approved subject to the appropriate standard conditions.

**15. URGENT BUSINESS**

There was no urgent business

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

**BLACKBURN HOUSE, THE MIDWAY, NEWCASTLE  
MORSTON ASSETS LTD – LADSON KEELE**

**14/00778/COUNOT**

The application is for a determination as to whether the change of use of the building from an office to 147 one bedroom serviced apartments requires prior approval, and subsequently it then follows if such approval is required a decision as to whether it should then be granted or refused. The application is brought before the Committee because although it could have been determined under delegated powers it concerns development of a “major” scale.

Blackburn House is a 5 storey building with a footprint of around 700 square metres.

The site is located within the Town Centre and a Conservation Area as defined in the Local Development Framework Proposals Map. In the Town Centre SPD the area within which Blackburn House lies is within the Pool Dam Waterside Quarter.

**The Authority must by 27 November 2014 have communicated to the applicant both its decision on whether prior approval is required and, if approval is required, its decision – if it does not the development can proceed, in accordance with the submitted details.**

## **RECOMMENDATION**

- 1) That Prior approval is required and
- 2) That the Head of Planning be authorised to take into account any comments received by 19<sup>th</sup> November in determining whether such prior approval should be given.

## **Reason for Recommendation**

The principle of the change of use has already been granted by Parliament. The decision of the Authority is limited only to the consideration of (a) transport and highways impacts of the development; (b) contamination risks on the site; and (c) flood risks on the site. There are significant transport and highways impacts to consider but no overriding objections taking into account the existing use of the building, the proximity to Town Centre public transport links, and public car parking provision and parking restrictions on roads around the site. Contamination and flood risks on the site do not generate concern in this particular location therefore approval should be supported.

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

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

Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy  
Policy CSP1: Design Quality

### Newcastle-under-Lyme Local Plan (NLP) 2011

Policy T16: Development – General Parking Requirements  
Policy T18: Development – Servicing Requirements

## **Other Material Considerations**

### National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Supplementary Planning Guidance/Documents

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

Newcastle-under-Lyme Town Centre Supplementary Planning Document

**Planning History**

The planning history to the site supports general office use as the established lawful use. A planning application for the recladding of the existing building and installation of new windows reference number 14/00779/FUL has been submitted in conjunction with the notification now considered – it has yet to be determined.

**Views of Consultees**

**Environmental Protection** have no objections to the application on contamination grounds. They also comment that the following factors should be brought to the attention of the applicant:

1. the property falls within an Air Quality Management Area (to be declared December 2014) and it is advised that a ventilation strategy for the building should be considered at this stage.
2. noise levels from nearby road traffic are high and the habitable areas of the development should provide adequate sound insulation and reduction.

The **Highway Authority** have no objections.

**Representations**

None received, but the period for public comment does not expire until 19<sup>th</sup> November.

**Applicants/ Agents submission**

The submitted information is available at the Guildhall and at [www.newcastle-staffs.gov.uk/planning/1400778COUNOT](http://www.newcastle-staffs.gov.uk/planning/1400778COUNOT)

**Key Issues**

The proposal involves the change of use of the building from offices to 147 serviced apartments. Each of the apartments proposed are to be one bedroomed units with an en suite and kitchen/ living room space. Other facilities within the block are also proposed including a cinema room, gymnasium, a communal area, bike store and workrooms. All are considered ancillary to the primary proposed dwellinghouse (C3) use.

An application for prior approval has been made because development consisting of the change of use of a building and any land within its curtilage from office use to dwellings is permitted under Class J of Part 3 to the Second Schedule of the Town and Country Planning (General Permitted Development) Order, as amended, provided certain conditions are met

Class J development is permitted subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:-

- (a) transport and highways impacts of the development;
- (b) contamination risks on the site; and
- (c) flood risks on the site.

Prior approval is only required where local planning authorities judge that a specific proposal is likely to have a *significant* impact on any of the matters listed. And it is only those particular



matters which can be assessed by the decision maker in reaching a determination as to if, firstly, prior approval is required and then, secondly, should it be granted or refused. The NPPG describes prior approval as a light touch process which applies where the principle of the development has been established (by Parliament) and that it is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.

1. Is prior approval required?

The number of units proposed is such that it could potentially generate significant traffic and highway impacts. However land contamination risks are inconsequential and the site is not in a location which is prone to flooding where the associated risks are low and are also deemed to be inconsequential.

2. Should prior approval be granted?

The most up to date planning policy (contained within the NPPF) indicates that development should only be prevented or refused on transport grounds where the impact of development is severe.

The Highway Authority have assessed the proposal and have no objections. The proximity of the site to Town Centre public transport links, public parking provision and the impact of the existing use of the building as offices all have to be borne in mind in assessing the degree of change in relation to transport and highways impacts to be experienced arising from the proposal. Taking all these factors into account a decision for approval is reasonable and it is not considered necessary to attach any conditions to that approval. Because the period for public comment does not expire until the day after the committee meeting, delegated authority to consider any such comments is sought.

**Background Papers**

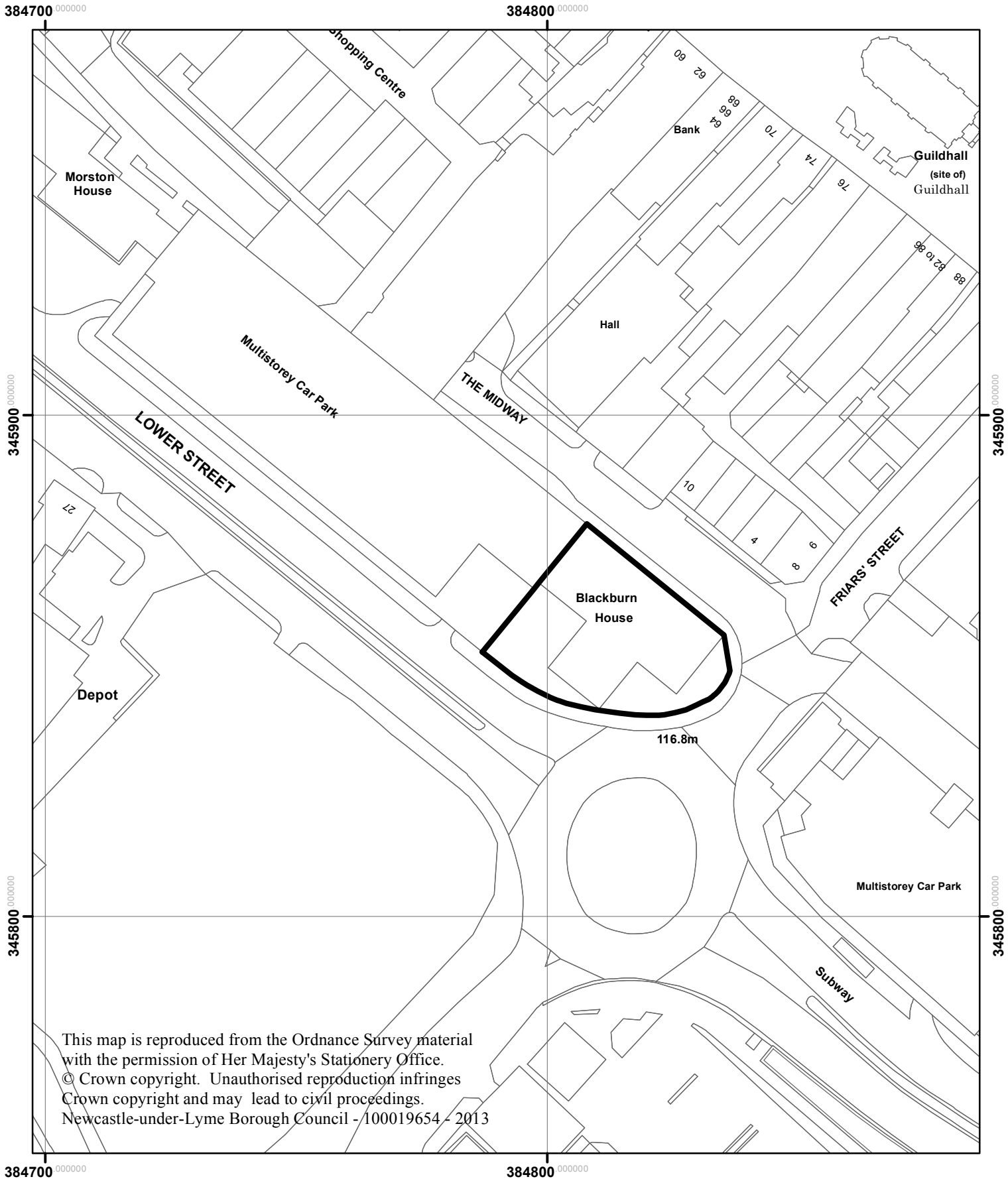
Planning File  
Planning Documents referred to

**Date Report Prepared**

5 November 2014.

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Blackburn House, The Midway, Newcastle  
14/00778/COUNOT



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**SANDFIELD HOUSE, BAR HILL, MADELEY  
MR D. A. C. BARKER**

**14/00684/FUL**

**The Application** is for the relocation of the access driveway and the change of use of the associated area to residential.

The site lies within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The application has been brought before the Planning Committee at the request of two Councillors on the grounds of road safety and inappropriate development to an already developed property.

A decision on the application was deferred at the meeting of the Committee held on 28<sup>th</sup> October to enable the applicant to explore alternative options for providing a safe access within the existing curtilage.

**The 8 week period for this application expired on 30<sup>th</sup> October 2014.**

## **RECOMMENDATION**

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

- **Standard time limit**
- **Approved plans**
- **Removal of permitted development rights for outbuildings on area around the access.**
- **The land between the 1.2m high timber picket fence and existing post and rail timber fence is not domestic garden, for the avoidance of doubt.**
- **Landscaping scheme including details of removal and reinstatement of hedgerows**
- **Details of boundary treatments**
- **Provision of visibility splays prior to the commencement of the construction of the access.**
- **Provision of access, driveway, parking and turning areas in accordance with approved drawings**
- **Closure of existing site access**
- **Details of surfacing materials for driveway**

## **Reason for Recommendation**

The new access provides highway safety betterment through the replacement of a substandard access. Although the proposal would involve an encroachment into the open countryside this has to a large extent been limited to that necessary to achieve the new access. The highway safety benefits outweigh the impact upon the landscape which can be limited by the reinstatement of hedgerows. Overall it is not considered that an objection could be sustained.

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

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

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

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

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

Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy N21: Area of Landscape Restoration

Policy T16: Development – General Parking Requirements

**Other Material Considerations include:**

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

**Relevant Planning History**

09/00714/FUL	Two storey rear extension and ground floor side extension	Approved
10/00571/FUL	Replacement two storey four bedroom dwelling	Approved
12/00058/FUL	Erection of detached double garage	Approved
14/00761/FUL	Relocation of access driveway and associated change of residential use of the area to residential	Withdrawn

**Views of Consultees**

**Madeley Parish Council** objects on the following grounds:

- Loss of open and viable agricultural land
- Unnecessary development as the existing entrance could be altered to achieve increased safety for vehicles.
- Action in being taken at the moment by agencies including Staffordshire Police and a Community Speedwatch to address speeding vehicles on Bar Hill which should reduce the hazards around the current access.
- There was a similar application by a neighbour in 2013 that was dismissed on appeal by the Inspector who referred to the unsustainable location and the harm to the character of the open countryside.
- The development is unnecessary and inappropriate.

The **Highway Authority** has no objections to the proposed development subject to conditions regarding visibility splays, provision of the access, driveway, parking and turning areas in accordance with the approved plans, the existing site access to be permanently closed and the access crossing reinstated as hedgerow, and the submission of details of the surfacing materials and surface water drainage for the driveway. It is stated that the existing access serving Sandfield House is substandard because it has restricted visibility. The design of the proposed access provides betterment in relation to highway safety as visibility splays are being provided in accordance with recorded traffic speeds on the A525 Bar Hill. In addition a turning head is proposed which will allow delivery vehicles and visitors to enter and exit the site in a forward gear.

The **Landscape Development Section** states that permission under the hedgerow regulations is not needed for the removal of the hedgerow on the grounds that the reason for the works is “to get access in place of an existing opening” and that the developer “intends to plant a new stretch of hedgerow to fill the original entrance”. An appropriate landscaping condition is recommended to secure full landscaping details for removal and reinstatement/replacement of hedgerows and other boundary treatment.

**Representations**

Letters of objection have been received from 14 residents and from Madeley Conservation Group. A summary of the comments made is as follows:-

- The site notice states that the proposed development does not accord with the provisions of the development plan in force in the area. If the LPA decides against the development plan then questions will be asked.
- There is no satisfactory explanation as to why the existing access cannot be improved.
- The proposed new access will be opposite properties that have cars parked outside on the road as they have no off-road parking. This would be more dangerous than the existing situation.
- An application on adjacent land was dismissed at appeal on the grounds that the destruction of at least 5m of hedgerow would be significant and the engineering works and visibility splays would harm the character and appearance of the surrounding area and the same applies here.
- Changing the use of the land would reduce the open agricultural land.
- The primary objective of this application seems to be to incorporate adjacent agricultural land into the domestic curtilage.
- Noise of development will be potentially disturbing to the quiet area.
- It appears that it would not be feasible to achieve and guarantee maintenance of the visibility splays as more than half is not in the ownership of the applicants.
- Should a change of use be granted, the LPA would have no control over the placement of domestic paraphernalia.
- There is inconsistency between the comments of the Highway Authority in relation to this current proposal and the previous withdrawn application. The questions that they posed remain the same.
- In pre-application correspondence between the agent and the LPA, the agent stated that "The owner has previously stated that the leftover strip currently has no agricultural use, and has no intention for the land to be used as agricultural land". It is asked whether if members of the public decided to acquire parcels of agricultural land randomly with no intention for the land to be used as agricultural land and used this as justification to convert agricultural land to residential land, what would the open countryside look like?
- The Landscape Officer's comments stated that no objection would be raised to the proposal should the affected section of hedgerow be entirely within or on a domestic boundary. None of the affected hedgerow is on a domestic boundary.
- The Highway Authority has stated that the existing access is substandard but in 2010 the Highway Authority gave full support for the access subject to conditions which have been met. Since that decision was made, there has been no change to the size of the property, the number of residents or the number of vehicles using it. Many things in the countryside would be considered to be 'substandard' by modern standards, but that was the situation when the applicants chose to develop the site.
- The Highway Authority does not state that the relocation of the access is essential or necessary.
- The application states that for ten years, the applicant has explored ways to improve the entrance but nothing has been done except to allow the hedge to grow very high making visibility worse.
- It would be possible to relocate the access to the east within the existing garden and give better visibility in both directions.
- No proper assessment has been made as to how this change would benefit other residents and road users. Recently, there was a collision between two vehicles passing where there is on-road parking and this occurred at the spot where the new entrance is proposed. There have been no such accidents at the current entrance where the road is free of parked vehicles.

Four letters of support have been received. It is stated that the A525 is a dangerous road and the driveway to Sandfield House is very unsafe. This application would move it to where there is much better visibility and it would be a much safer option for everyone. It would only require small alterations to the land and hedging. Also, having a more obvious entrance on that side of the road would make motorists slow down which would certainly be welcomed. It is not considered that the proposal would have any great impact on the countryside.

### **Applicant's/Agent's submission**

A Design and Access Statement has been submitted which concludes that the existing visibility splay to the existing access is considerably below the required standards. It is therefore considered that the driveway access is a material consideration on the grounds of safety and to comply with Staffordshire County Council's Residential Design Guide.

A Transport Statement has been submitted and a summary is as follows:

- The ground level either side of the existing access from Sandfield House is considerably higher than the level of the road, obstructing visibility.
- Visibility is also limited by the hedging which is close to the kerb line as there is no footpath on this side of the road.
- The existing visibility splay is considerably below the required standards and for vehicles travelling in a westbound direction, the visibility splay is effectively zero.
- The required works to enable the existing access driveway to be upgraded would require the removal and cutting back of the hedge and the surrounding ground level would have to be lowered for a considerable distance.
- This would require considerable works to be undertaken on land which does not belong to the applicant.
- Therefore on the grounds of safety and to comply with Staffordshire County Council's Residential Design Guide a new access driveway is to be provided to the eastern part of the site to enable the construction and maintenance of the required visibility splays.
- The line of the visibility splay should be kept free of all obstructions in the vertical plane measured from the driver's eye-height of no less than 1.05m above the road surface to a point no less than 0.6m above the road surface in accordance with Staffordshire County Council's Residential Design Guide and the Manual for Streets document.

A letter has been received clarifying points raised in letters of representation. The following points are made:-

- The applicant is applying for the change of use of land for the construction of an improved relocated driveway, to provide a permanent safe access solution to exclusively serve a single existing family home on land within the client's ownership. At no point has the applicant attempted to, or even expressed a desire to, build additional dwellings on their land.
- The works will include the making good, infilling and improvement of the existing hedgerow and associated landscaping with respect to the surrounding area and open countryside.
- A large proportion of the representations state that "The proposed development does not accord with the provisions of the development plan in force in the area in which the application relates" and object on these grounds. This is a statement of fact but the safety of local residents in terms of improving access, should overcome policy.
- The applicant has openly and willingly worked with the Local Authority to achieve a solution which is deemed appropriate and in accordance with the local character. No buildings or outbuildings will be placed within the change of use land and whilst some elements of the hedgerow will be removed, the client is proposing to infill, replant and improve the existing hedgerow.
- Previous applications for a new dwelling and access made by a neighbour and referred to in some responses are not related to this application.
- A number of responses question what can be done to improve the existing access. Expert opinion in the transport assessment and design and access statement clearly defines and documents expert opinion. For the past ten years the applicant has attempted to live with the existing access and has explored ways to improve it, including a convex mirror and additional road signage, all of which proved not to be acceptable or a long term solution. Further, it would not be logical to look to remove a large section of working agricultural land not in the applicant's ownership, when the proposed solution is on unused land within the client's ownership.
- The applicant has already stated that he would not challenge any reasonable planning conditions being applied to any permission.



## **Key Issues**

Permission is sought for the relocation of the access driveway that serves the property and the change of use of the associated area to residential curtilage.

The site is within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map. It is considered that the key issue to be addressed in consideration of this application is whether the proposed encroachment into the open countryside is acceptable, having regard to matters of highway safety and visual impact.

The proposal would involve the extension of the domestic curtilage of the property out into the open countryside by approximately 18m. A new driveway is proposed to the east of the dwelling which would run parallel to the side elevation of the house and would curve to the rear to provide access to a proposed garage, granted planning permission in 2012 (12/00058/FUL). A turning head is proposed to the front of the house.

Both the development plan and the NPPF aim to protect the open countryside from encroachment. The NPPF also states that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

The Design & Access Statement that accompanies the application states that the existing visibility splay is considerably below the required standards. It argues that the new access will improve visibility and that highway safety is a material consideration.

The current access is to the west of the dwelling. The existing visibility is significantly below the required standards due to the fact that the ground level either side of the existing access is considerably higher than the level of the road and there is a hedgerow close to the kerbline. A Transport Statement submitted with the application has stated that improvements to the existing access would require the surrounding ground levels to be lowered for a considerable distance which would require works to be undertaken on land which does not belong to the applicant. In addition, the works would require the removal of the boundary hedge. Your Officer agrees that improvements to the existing access appear difficult to achieve.

A decision on this application was deferred at the meeting of the Committee held on 28<sup>th</sup> October to enable the applicant to explore more fully alternative options for providing a safe access within the existing curtilage. The applicant's agent has confirmed that additional information is to be submitted by 7<sup>th</sup> November and therefore your Officer intends to report any further information along with any further comments of the Highway Authority if considered necessary in a supplementary report to Members.

The new access to the east of the site would enable the provision of the required visibility splays. The Highway Authority has no objections to the proposal subject to conditions and has advised informally that although there have been no recorded accidents in the vicinity, visibility from the existing access is substandard and therefore the proposal would result in betterment in terms of highway safety.

The site lies within an Area of Landscape Restoration and NLP policy N21 states that within such areas it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape. To achieve the required visibility splay, some of the existing hedgerow along the boundary with the highway will have to be relocated. The Landscape Development Section has advised that for those sections of the hedgerow that do not border a domestic curtilage, an assessment is required in terms of the criteria identified in the Hedgerow Regulations, along with information to demonstrate the length of hedgerow removal along with proposals for mitigation/replanting. No assessment of the hedgerow has been submitted and the applicant's agent has referred to an application relating to a barn at the rear of Sandfield House (Ref. 12/00694/FUL) in which it was proposed to remove a length of hedgerow and the Landscape Development Section did not ask for any similar assessment. Given this and given that an improvement in highway safety would be achieved, subject to conditions requiring full details of the removal and reinstatement of hedgerows, it is not considered that an objection could be sustained on such grounds.

Many of the representations that have been received refer to an application on adjacent land that was dismissed at appeal (Ref. 12/00694/FUL). In considering that appeal the Inspector concluded that the creation of a new access would introduce an engineered feature into the landscape and result in the loss of at least 5m of a mature and visually attractive hedgerow and would materially harm the character and appearance of the surrounding area. It should be noted that the application which was subject to the appeal differs from the current proposal however, in that it was for a new dwelling whereas this is an application for a new, safer access in association with an existing dwelling. It cannot be assumed, therefore, that the Inspector would have reached the same conclusion if presented with a case that the access was required to improve highway safety.

Representations have also been raised on the grounds of a perceived inconsistency between the comments of the Highway Authority in relation to this current proposal and the previous withdrawn application. The Highway Authority objected to the application that was withdrawn on the grounds of insufficient information. Additional information was requested including details of visibility splays and clarification as to why the existing access cannot be improved. This information has now been submitted in a Transport Statement that accompanies the application and on the basis of that information; the Highway Authority has no objection.

As indicated above the formation of the new access involves an encroachment into the open countryside and an enlargement of the existing residential curtilage of the property. In response to concerns expressed prior to the submission of the application the extension of the domestic curtilage has been limited to that necessary to provide the new access other than a small amount of additional land in the south west corner to achieve a straight boundary fence line. An additional strip of land beyond to the east of the access, which is in the applicant's ownership, has been excluded from the extended residential curtilage to minimise the amount of encroachment arising. For the avoidance of doubt it is considered that a condition should be imposed which states that this area of land does not form part of the domestic curtilage.

In conclusion, it is considered that although the proposal would involve an encroachment into the open countryside, given the highway safety benefits and the lack of any significant adverse impact upon the landscape, it is not considered that an objection could be sustained.

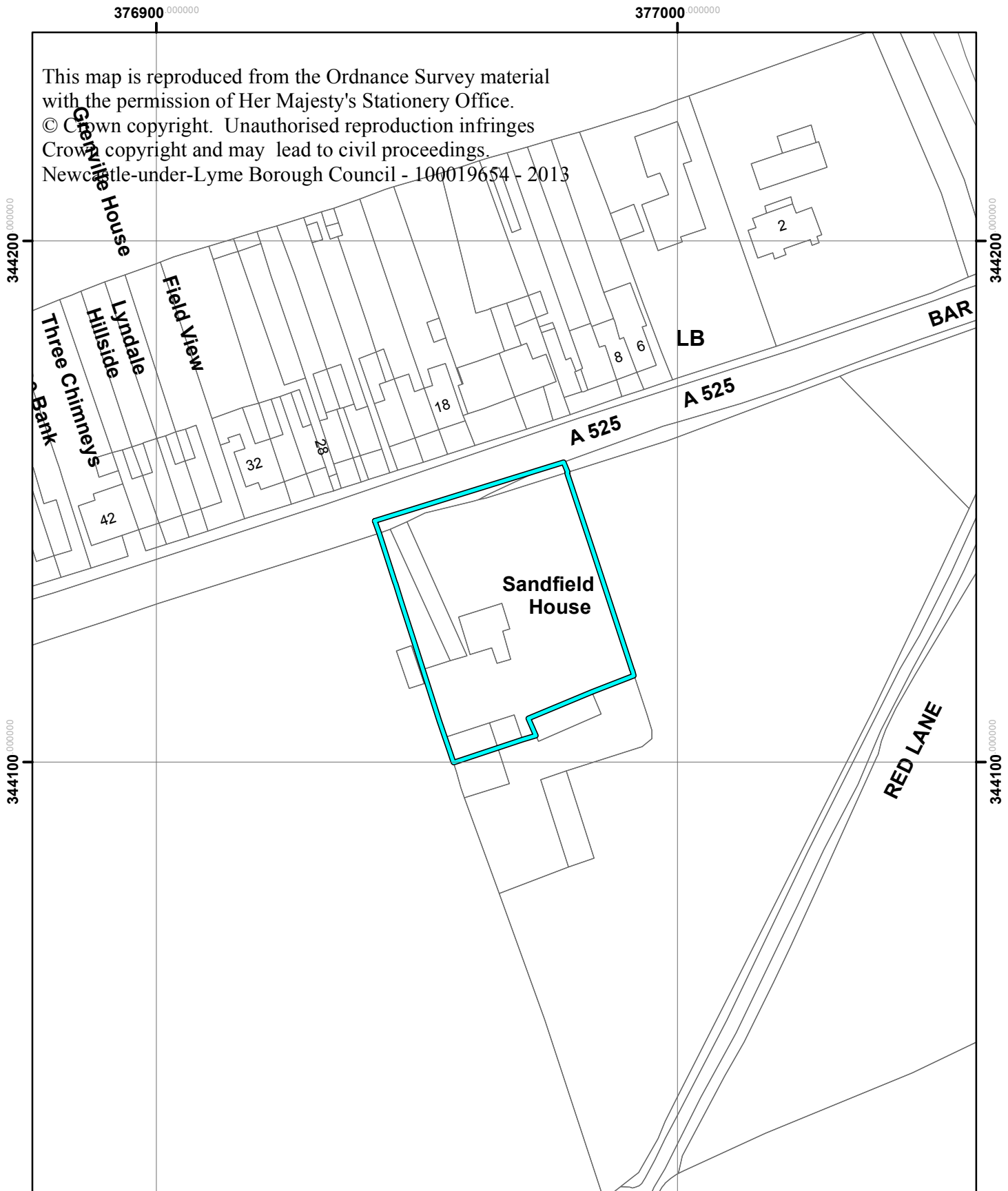
### **Background Papers**

Planning files referred to  
Planning Documents referred to

### **Date report prepared**

4<sup>th</sup> November 2014

Sandfield House, Bar Hill  
Madeley  
14/00684/FUL



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**PROPOSED SPLIT LEVEL DWELLING  
MR AND MRS M COX**

14/00700/FUL

The Application is for full planning permission for a split level dwelling at land to the rear of Grindley Cottage, Church Lane, Betley.

The site lies within the village envelope of Betley, and within the Betley Conservation Area as designated on the Local Development Framework Proposals Map. The boundary of the Green Belt lies to the south of the site.

The Grade I Listed St Margaret's Church is situated to the north of the site with the churchyard boundary forming the boundary with the application site.

**The 8 week period for this application expires on 26<sup>TH</sup> November 2014.**

**RECOMMENDATION**

**REFUSE** the application for the following reasons:

- 1. The proposed development, by virtue of its siting and design, would harm the setting of the Grade I Listed Building, St Margaret's Church, contrary to Policy B5 of the Local Plan and the aims and objectives of the National Planning Policy Framework.**
- 2. The proposed development, by virtue of its siting and design, would harm the rural setting and character of the Betley Conservation Area, contrary to Policies B9, B10 and B13 of the Local Plan and the aims and objectives of the National Planning Policy Framework.**
- 3. Failure to demonstrate that the proposed extension would not result in the loss of visually significant trees to the detriment of the character and appearance of the area and contrary to Policies N12 and B15 of the Local Plan and the aims and objectives of the National Planning Policy Framework.**

**Reason for Recommendation**

The development site is adjacent to St Margaret's Church, a Grade I Listed Building, and the development's design and siting would harm the setting of this Grade I Listed Building. The proposal is therefore contrary to Policy B5 of the Local Plan and the aims and objectives of the National Planning Policy Framework.

In addition, the proposal, by virtue of its design and siting, would harm the rural setting of this part of the Conservation Area, and the proposal is therefore contrary to Policies B9, B10 and B13 of the Local Plan and the aims and objectives of the National Planning Policy Framework.

Lastly, the applicant has failed to demonstrate that the proposed development would not result in tree loss, and the proposal is therefore contrary to Policy N12 and B15 of the Local Plan.

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

As it has not been demonstrated that the development would not result in the loss of trees, and as there are significant issues with the design of the dwelling, its siting and impact on the Conservation area and Listed Church, the development is considered unsustainable 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 (CSS) 2006-2026

Policy SP1: Spatial Principles of Targeted Regeneration

Policy SP3: Spatial principles of Movement and Access  
Policy ASP5: Rural Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP2: Historic Environment  
Policy CSP3: Sustainability and climate change

#### Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1: Residential Development – Sustainable Location & Protection of the Countryside  
Policy T16: Development – General Parking Requirements  
Policy B5: Control of development affecting the setting of a listed building  
Policy B9: Prevention of harm to conservation areas  
Policy B10: The requirement to preserve or enhance the character or appearance of a conservation area  
Policy B13: Design and Development in conservation areas  
Policy B15: Trees and Landscape in conservation areas

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

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

#### Supplementary Planning Guidance

Space Around Dwellings SPG (July 2004)

Developer Contributions Supplementary Planning Document (SPD) (September 2007)

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

North Staffordshire Green Space Strategy – adopted December 2009

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

#### Relevant Planning History

06/00960/FUL Withdrawn 22.2.2007 Dwelling

#### Views of Consultees

**Environmental Protection** – No objections, subject to informative being included on any approval regarding importation of non-virgin materials.

**Highway Authority** – No objections subject to conditions relating to the following:

- Revised access details showing a minimum access width of 4.2 metres for the first 5 metres rear of Church Lane carriageway edge
- Resurfacing of the access in a bound material for 5 metres back from the carriageway edge of Church Lane
- Provision of the driveway, parking and turning areas prior to occupation

**County Landscape Archaeologist** – There is high potential for below ground archaeological remains to survive, and it is advised that an archaeological watching brief be maintained on all groundworks associated with the application should it be permitted.

**English Heritage** – Objects to the application on the grounds that both its design and siting will cause harm to the setting of the Grade I listed church of St Margaret, and to the character and appearance of the Betley Conservation Area

**Betley, Balterley and Winehill Parish Council** – no comments received by due date (28<sup>th</sup> October 2014)

**Conservation Officer** – The application site is within Betley Conservation Area close to the SE boundary. The eastern boundary runs along the back of the cemetery includes the garden around Grindley House and Grindley Cottage, along the edge of the application site and around the cricket ground.

The appraisal identified that positive characteristics of the Conservation Area are its attractive rural setting allowing for positive views across fields. A key issue identified in the Appraisal is the importance of protecting the landscape setting and rural aspect of the village and loss of open spaces to housing development. The appraisal highlights that there are notable views through the undulating topography to and from St Margaret's Church and from the Cricket Ground. Other significant views of the Church tower are from Main Road looking north east from Betley Court. This area has always remained undeveloped and part of the informal garden to the former Vicarage.

St Margarets Church is a Grade I listed building which sits on a small elevated hill, set within a relatively large churchyard. The former vicarage lies adjacent to the churchyard to the southeast and the land to the south of this slope away. The landscape has a relatively natural feel here marking the edge of the settlement boundary. It is essential to determine whether new development would have an impact on the character or appearance of the Conservation Area and its setting and on the setting of the Grade I Listed Church, and how significant that impact is. The NPPF states that planning authorities should ensure that new development makes a positive contribution to local character and distinctiveness that we should be mindful of the harm caused to the Conservation Area by developments and there should be clear and convincing justification for any harm caused. If the harm is considered to be substantial consent should be refused. If it causes less than substantial harm then as there are no public benefits coming from the proposal the application should still be refused.

Given the context of the site, the level of assessment is poor and it is considered that the proposed development does not help to better reveal the significance of the Conservation Area or arguably make a positive contribution in terms of its design.

This proposal for the two storey house to develop and domesticate a previously undeveloped part of the Conservation Area will harm the rural setting of the edge of this part of the Conservation Area. The proposal will have some impact on views into the Conservation Area from the south and has the potential to cause harm to the setting of the Listed Church. The requirement for a watching brief is supported if development were to be allowed on this site, given the close proximity to the churchyard.

**Conservation Advisory Working Party** – An archaeological assessment is an essential requirement so close to an ancient burial ground to enable a full understanding of the site. The working party objects to any development on this site and particularly feels that the proposal is of poor design quality and inappropriate for the Conservation Area and harms the setting of the Grade I Listed Church. If any development in this site was considered acceptable, a quality innovative design, fully justified, should be insisted upon.

**Landscape Division** – Require the following additional information before they can comment:

- Tree Survey (in accordance with BS5837:2012), the information provided needs to be extended to cover the requirements of this British Standard.
- Retained trees and RPAs need to be shown on the proposed layout
- An Arboricultural Impact Assessment.

All trees that are affected by this proposal (both inside and outside the site) and also trees that will be affected proposals for the driveway will need to be considered.

**United Utilities** – No objections and therefore request no conditions are attached to any approval.

## Representations

11 separate representations have been received, the main points raised are summarised below:

- Significant and detrimental impact on the Grade I Listed Church of exceptional interest.
- Views of the church from the public footpath on Church Terrace, across the cricket ground and to the south and south east of the village would be harmed
- The setting of the Grade I listed church would be harmed
- The historical integrity and visual relationship of the church and its former vicarage would be harmed
- The development would be built on an area which could be expected to contain archaeological remains
- The impact of developing on green space – the charm of the village changes when a garden or green space is developed – need to protect the character of the village by protecting green spaces
- Tree planting would compromise views of the church
- Greenfield site where development should be refused (references to PPS 3)
- Design is mundane and suburban, and the mass, form and location of the dwelling would harm the character and appearance of the conservation area
- The Betley Conservation Area Management Plan, December 2008, in Policy Betley CA No. 3 indicates that this proposal should be refused. Sub-section (ii) of the Policy: “The Borough Council will refuse applications for new development in or on the edges of Betley Conservation Area which would result in the loss of existing garden space, or which would conflict with the prevailing form of historic development.”: particularly applies.
- Traffic will increase into the Conservation Area, causing congestion of Church Lane and increase risk to school children
- The plans involve the demolition of an attractive building that formed part of the vicarage, and is architecturally in the style of the original vicarage building. It stands in the garden of Grindley Cottage and is within the Conservation Area. To demolish it just to give access to the proposed dwelling is unacceptably destructive.
- A previous proposal for a house in the same position was rejected in 2007 (06/0096/FUL). The proposal was refused for the adverse effect it would have had on Betley Church, the conservation area and traffic around Betley Village School.
- The applicants have been working on alterations and extensions to Grindley Cottage for over three years now and is far from finished. Noise, vibration, dust and heavy vehicles involved has had an impact on neighbouring occupiers
- The land is Green Belt
- The site forms part of the ancient mound upon which St Margaret’s is built. Any building on the site would destroy the setting of the church
- Betley Church, like All Saints Church at Madeley and St Bertoline’s at Barthomley, is built on an ancient mound which is part of the ancient old straight track or Ley Line system which runs across the country. The mound forms important and highly visual markers along the Ley navigation system.
- The building would be out of character and sympathy with its surroundings and the Conservation Area.

## Applicant’s/Agent’s submission

The applicant has submitted an arboricultural assessment and a design, access and supporting statement with their application, along with the requisite plans and application form.

All documents submitted are available to view on the Council’s website at [www.newcastle-staffs.gov.uk/planning/1400700FUL](http://www.newcastle-staffs.gov.uk/planning/1400700FUL)

## **Key Issues**

Full planning permission is sought for the erection of a split level dwelling on land at Grindley Cottage, Church Lane, Betley. Access would be gained from Church Lane via the existing driveway to Grindley Cottage, and an existing outbuilding would be demolished to make way for the proposed driveway.



The application site is within the village envelope and Conservation Area of Betley, as indicated on the Local Development Framework Proposals Map. The main issues in the consideration of the application are:

- Is the principle of residential development on the site acceptable?
- Is the proposal acceptable in terms of its design and impact on the form and character of the area?
- Is the development acceptable in terms of the impact upon the Grade I listed building (St Margarets Church)?
- Would there be any adverse impact on residential amenity?
- Is the proposal acceptable in terms of highway safety?
- Is the proposal acceptable in terms of its landscaping and impact on trees?

Is the principle of residential development on the site acceptable?

The site is within the rural area and forms part of a residential garden to Grindley Cottage. Therefore the application site does not meet the definition of previously developed land and is therefore classed as Greenfield. The site is however within the village envelope of Betley.

Saved policy NLP H1 indicates that planning permission will only be given in certain circumstances – one of which is that the site is in one of the village envelopes. In this case the site does lie within the village envelope and is a short walk to the centre of the village.

More recently adopted policy, CSS Policy ASP6, is not supportive of residential development in the rural area other than where it is located in one of the identified Rural Service Centres which Betley is not.

The NPPF, however, states at paragraph 49 that *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

The Borough is currently unable to demonstrate a five year supply of deliverable housing sites as required by paragraph 47 of the NPPF and as such, taking into consideration paragraph 49, policies such as NLP H1 with its reference to the village envelope, and policy CSS ASP6 with its reference to Rural Service Centres have to be considered to be out of date, at least until there is once again a 5 year housing land supply.

Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development, and for decision taking this means, unless material considerations indicate otherwise, that where the development plan is absent, silent or relevant policies are out-of-date, as in this case, 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.

The examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

The Council has taken the view in consideration of recent applications in Betley/Wrinehill that due to the public transport opportunities and services that development would be sustainable. As such and in accordance with paragraph 14, there is a presumption in favour of this development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Such impacts are explored below.

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

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 129 of the NPPF indicates that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset, taking into account available evidence and any necessary expertise.

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 states that permission will be granted to construct a building only if its proposed appearance will preserve or enhance the character or appearance of a conservation area. This should be achieved by ensuring that the form, scale, bulk, height, materials, colour, vertical or horizontal emphasis and detailing respect the characteristics of the buildings in the area, that the plot coverage characteristics respect those of the area, that historically significant boundaries contributing to the established pattern of development in the area are retained, that open spaces important to the character or historic value of the area are protected, that important views within, into and out of the area are protected, and that trees and other landscape features contributing to the character or appearance of the area are protected.

The dwelling is proposed to be a split level dwelling. The split level design appears to be dictated by the land level changes on the site which slope downwards towards the west and south, therefore the two storey element of the dwelling would face towards the west. The design would feature a two storey outrigger faced with Sandstone, and a natural slate roof. The supporting statement recognises the importance of preserving the character of the conservation area, and states that because of this they have kept the design of the proposed dwelling fairly simple, but have included one or two modern features, mostly areas of glazing. The dwelling would be accessed from the existing access to Grindley Cottage, and a new driveway would be created which would sweep around the south edge of the garden of Grindley Cottage.

The site is part of the garden area of Grindley Cottage, and lies to the south of St Margaret's Church, separated by a young evergreen hedgerow. The site lies to the north of the cricket ground, and there are public footpaths in its vicinity. It is considered that the plot coverage characteristics would respect the built form of the area as a dwelling of this size would not appear cramped into the site.

The trees surrounding the site are proposed to be retained which is a requirement of Policy B10 where they contribute to the character of the conservation area, however there is insufficient information to assess whether the trees will remain unaffected by the proposed development. If retained, the trees would provide a good level of screening to the proposed dwelling when viewed across the field from Main Road, and from the public footpath to the west and south. However it is considered that the dwelling would be visible through the trees from the public footpath and would be viewed with the Listed Church. The proposed dwelling would not obscure views of the church from the footpath as it extends away to the south through the cricket club and beyond, as the existing site boundary trees along the south boundary already largely obscure any views of the church.

A key issue identified in the Conservation Area Appraisal is the importance of protecting the landscape setting and rural aspect of the village and loss of open spaces to housing development. The appraisal highlights that there are notable views through the undulating topography to and from St Margaret's Church and from the Cricket Ground. Other significant views of the Church tower are from Main Road looking north east from Betley Court. This area has always remained undeveloped and part of the informal garden to the former Vicarage.

The NPPF states that planning authorities should ensure that new development makes a positive contribution to local character and distinctiveness that we should be mindful of the harm caused to the Conservation Area by developments and there should be clear and convincing justification for any harm caused. If the harm is considered to be substantial consent should be refused. If it causes less than substantial harm then as there are no public benefits coming from the proposal the application should still be refused.

Given the context of the site, it is considered that the proposed development does not help to better reveal the significance of the Conservation Area or arguably make a positive contribution in terms of

its design. The development is therefore considered harmful to the character and appearance of the Conservation Area, and conflicts with Policies B9, B10 and B13 of the Local Plan and the aims and objectives of the National Planning Policy Framework.

In the development acceptable in terms of the impact upon the Grade I listed building (St Margaret's Church)?

The NPPF indicates at paragraph 129 that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset, taking into account available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 131 indicates that Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 132 indicates that great weight should be given to a heritage asset's conservation when assessing the impact of a proposal on a designated heritage asset.

Policy B5 of the Local Plan states that the Council will resist development proposals that would adversely affect the setting of a listed building. St Margaret's Church is a Grade I Listed Building that lies to the north of the application site, approximately 24 metres from the boundary between the church and the application site. The graveyard to the church is situated between the church and the application site. St Margaret's Church is identified in the Betley Conservation Area Appraisal as a positive characteristic of the Conservation Area.

The dwelling would not obstruct views of the Listed Church when looking across the fields from Main Road, as the dwelling would be located to the side of the church. However it would be visible within these same views of the Listed Church and as such an assessment needs to be made as to whether the proposal harms the setting of the Listed Building. There is a public footpath running alongside the church and application site to the west, which then curves around the south of the site and continues on away from the village towards the south. The dwelling would be visible from this public footpath though the boundary trees, and whilst the dwelling would not obscure views of the church from the public footpath to the side, it would be visible in such views from the public footpath as it continues to the south. However the view of the church to the south is largely obstructed by the site trees which are proposed to be retained.

The topography of the site in relation to the listed building is important to consider, as the church is on elevated land, with the site levels sloping downwards to the west and south. Whilst not significantly different, the levels would alter the relationship between the proposed dwelling and the church in that the dwelling would sit lower than the church. The two storey element of the proposed dwelling would be the most prominent elevation of the proposed dwelling as this would face towards the public footpath, and it would be this elevation and the north facing elevation that would have the greatest impact upon the Listed Church.

The dwelling would be sited approximately 38 metres from the listed church, and 15 metres from the boundary with the church yard. This close proximity, added to the lack of justification for the design of the dwelling lead to the conclusion that the proposed development would be likely to harm the setting of the Grade I Listed Building, and the application should therefore be resisted for this reason.

Would there be any adverse impact on residential amenity?

The Council's Supplementary Planning Guidance Document "Space Around Dwellings" provides guidance on achieving appropriate residential amenity standards for new residential development.

Having assessed the likely impact on neighbouring occupiers in terms of any loss of light or privacy, the proposal would not cause any loss of light or privacy to neighbouring occupiers. The proposed dwelling would have an acceptable sized garden area for a four bedroom dwelling.

Overall, the proposal is considered acceptable in terms of its likely impact upon neighbouring residential amenity, and is in compliance with the Council's Space Around Dwellings Supplementary Planning Guidance Document.

Is the proposal acceptable in terms of highway safety?

The development would be accessed via the existing driveway for Grindley Cottage off Church Lane. The Highway Authority has requested that this access be widened to 4.2 metres in order to ensure safe and suitable access for the two dwellings it would serve. Provided this is done (which can be secured via a condition) the access to the site in terms of highway safety would be acceptable.

The proposed seeks to provide an adequately sized turning space for cars serving the dwelling.

Overall, the proposal is considered acceptable in terms of highway safety and car parking.

Is the proposal acceptable in terms of its landscaping and impact on trees?

Policy N12 of the Local Plan 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.

The Landscape Division has identified that there is insufficient information to assess the impact of the development upon the trees on the site. They have requested additional information which has been relayed to the applicant's agent. Any additional information submitted and comments from the landscape division will be reported to the planning committee.

However, as the applicant has failed to show that the development would have an acceptable impact upon the trees on the site, the application should be refused for this reason.

**Background Papers**

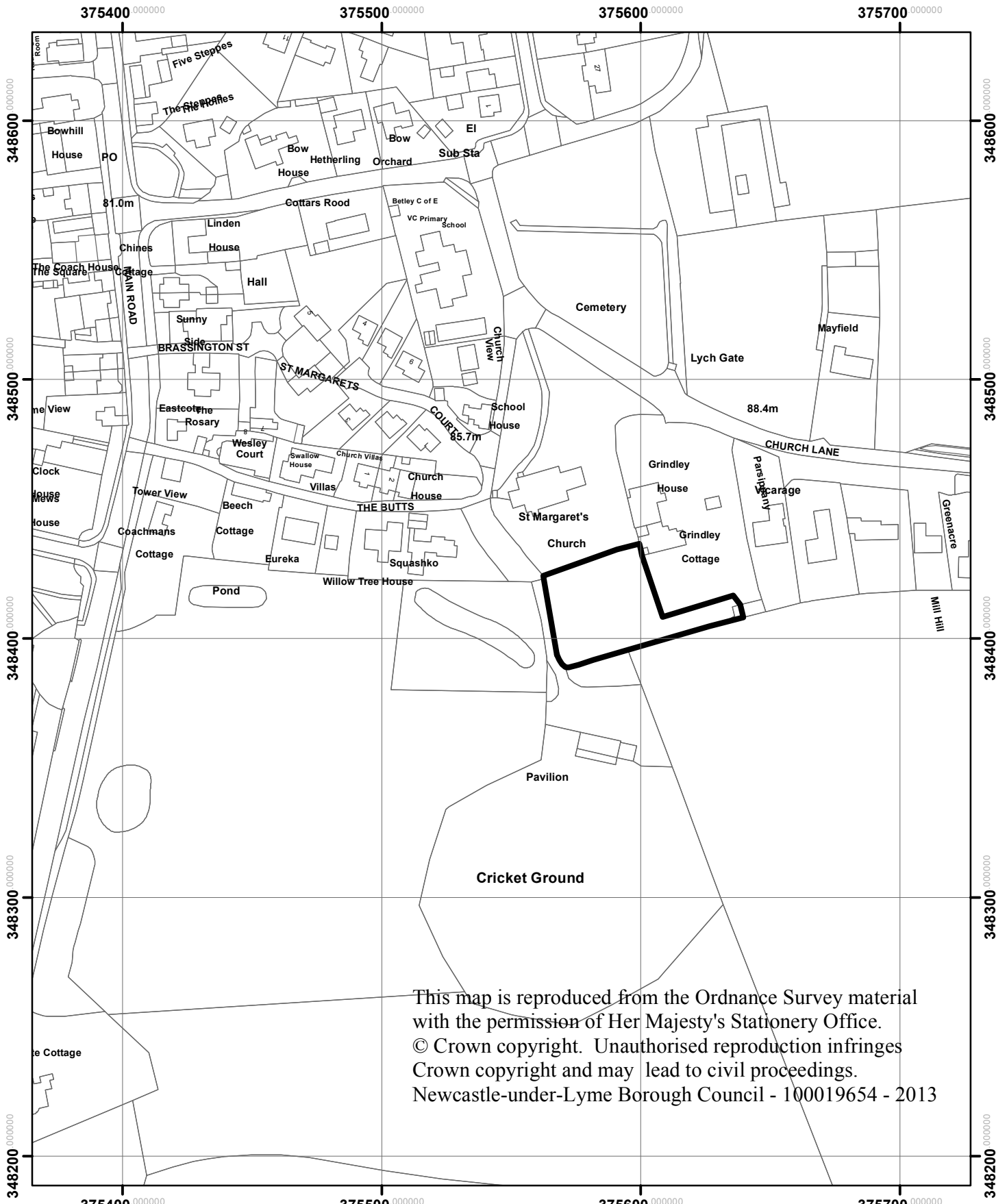
Planning files referred to

Planning Documents referred to

**Date report prepared**

29<sup>th</sup> October 2014

Land to rear of Grindley Cottage,  
Church Lane, Betley  
14/00700/FUL



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**LAND SOUTH OF FIELDS FARM, CHURCH LANE, BETLEY  
HALLMARK POWER LTD**

**14/00636/FUL**

The application is for the installation of a 500kw wind turbine (maximum tip height 77m) and associated infrastructure, including an access track, at Fields Farm in Betley. The application also involves the diversion of a public footpath.

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

Church Lane is a C class road.

**The 8 week period for the determination of this application expired on 17<sup>th</sup> October 2014, but the applicants have agreed to extend the statutory period, presently to the 12th December 2014.**

## **RECOMMENDATION**

Subject to confirmation from Environmental Health that the most up to date guidance on conditions has been followed, permit subject to the following conditions;

- 1. Standard time limit**
- 2. Approved plans and supporting information**
- 3. Submission and approval of specific turbine and associated infrastructure details**
- 4. Turbine colour**
- 5. Notification to LPA of development commencement date**
- 6. Temporary works reinstated once the turbine is operational**
- 7. Development carried out in strict accordance with Delivery Route Assessment and Traffic Management Plan dated 03/10/2014 (as advised by HA)**
- 8. Submission and approval of further badger survey**
- 9. Mitigation measures as per approved ecology report**
- 10. Decommissioning and removal of all infrastructure hereby approved once it ceases to be required for energy generation purposes**
- 11. Turbine to be located over 77 metres from any public footpath/ right of way**
- 12. Construction hours**
- 13. Noise limited to an  $L_{A90,10min}$  of 35dB(A) at wind speeds of up to  $10m/s^{-1}$  as measured or calculated at 10m height**
- 14. Submission and approval of an assessment/ mitigation measures to limit the potential for shadow flicker**
- 15. The temporary site access of Church Lane shall be provided before the commencement of the development.**

## **Reason for Recommendation**

The proposed development does not meet one of the exceptions for appropriate development within the Green Belt and therefore represents inappropriate development with the Green Belt. In this instance it is considered that there would be a degree of harm to the openness of the Green Belt and the construction of a turbine would be contrary to the purpose of including land within Green Belts that refers to safeguarding the countryside from encroachment. There would also be some harm to the character and quality of the landscape due to the scale of the development. The harm to the Green Belt and landscape would however be outweighed by the benefits of the development, most notably the wider environmental benefits associated with increased production of energy from renewable sources and the contribution to cutting greenhouse gas emissions to tackle climate change. There are considered to be the very special circumstances required to justify the development. Any harm to highway safety, residential amenity levels, ecology impacts and the users of public footpaths could be mitigated through the imposition of conditions. The proposed development therefore accords with the

policies of the development plan identified and the guidance and requirements of the National Planning Policy Framework.

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

The Local Planning Authority in order to work in a positive and proactive manner has requested additional information during the application which has subsequently been submitted.

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

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

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

Newcastle-under-Lyme Local Plan 2011

Policy S3: Development in the Green Belt  
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures  
Policy N12: Development and the Protection of Trees  
Policy N14: Protection of Landscape Features of Major Importance to Flora and Fauna  
Policy N17: Landscape Character – General Considerations  
Policy N20: Area of Landscape Enhancement  
Policy B2: Scheduled Ancient Monuments  
Policy B5: Control of Development Affecting the Setting of a Listed Building

**Other material considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (2014) including planning practice guidance on renewable and low carbon energy

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

ETSU- R-97 The assessment and rating of noise from wind farms

Onshore wind energy planning conditions guidance note – a report for the Renewables Advisory Board and BERR, 2007

Planning History

Nil

Views of Consultees

The **Environmental Health Division** have indicated that a noise assessment has been submitted. A theoretical analysis has been undertaken, stating that the worst case predicted noise levels at the nearest residential property does not exceed the 35dB LA90 ETSU-R-97 simplified noise limit. No objections are raised subject to a construction hours condition and a condition limiting noise from the operational turbine as measured at the nearest noise sensitive receptor limited to  $L_{A90,10min}$  of 35dB(A) at wind speeds of up to  $10m/s^{-1}$  as measured or calculated at 10m height.

The **Landscape Development Section** raise no objections following the submission of revised information as it would appear that the revised route for access would avoid the need for hedgerow



removal and replacement at the temporary site entrance on Church Lane. Conditions regarding the submission and approval of a detailed method statement to cover the removal and replanting of hedgerow removed and a detailed method statement to demonstrate the installation of the underground grid connection on the existing retained hedgerow are advised.

The **Highways Authority** raises no objections subject to conditions that the temporary site access off Church Lane shall be provided before the commencement of the development and shall be reinstated to hedgerow on completion of the works, abnormal indivisible loads shall access the site in accordance with the Delivery Route Assessment and Traffic Management Plan report; and The Traffic Management Plan shall be adhered to for all vehicles movements throughout the construction of the proposed wind turbine. Important 'informatives' are also advised.

The **Conservation Advisory Working Party (CAWP)** raises no objections

**National Air Traffic Services (NATS) Safeguarding** raises no safeguarding objections.

**County Council Footpaths Officer** has advised that often, fall-over distance is considered an acceptable separation (between a public right of way and a turbine), and the minimum distance is often taken to be that the turbine blades should not be permitted to oversail a public right of way. In this case the separation distance does not seem to be much more than 70 metres from the proposed new footpath at its closest point which is less than the tip height of the proposed turbine (77 metres) which could, potentially, cause disruption to path users. The developer needs to take account these comments and reconsider whether the current proposed location is the most appropriate.

**Madeley Parish Council** has advised that Councillors neither support or oppose the application and did not wish to comment any further.

**Betley, Balterley and Wrinehill Parish Council** resolved that the Council is not convinced that the proposed works represent appropriate development within the Green Belt; that it is a matter for the Borough Council to determine whether there are very special circumstances to justify granting permission; and that if the Borough Council is minded to grant permission the Parish Council would require that there would be no damage to existing hedgerows and other environmental features as a consequence of carrying out the development.

**Audley Parish Council** support the application subject to a satisfactory traffic management plan being provided by the applicant to demonstrate there is no negative impact on the Audley parish residents from HGVs and construction traffic entering and leaving the site, and it is also to the satisfaction of Betley Parish Council.

The **Council's Urban Design and Conservation Officer** agrees with the submitted information and particularly the heritage statement, that the topography of the area including woodlands restricts many views in general having walked the public footpaths in the vicinity. The most significant asset located closest to the turbine is Heighley Castle (remains of). Given the topography the turbine is unlikely to be visible from the south or north. It is not considered that the location of the proposed turbine would have any significant impact upon Heighley Castle. Strategically the castle and its surrounding landscape will be unaffected by the presence of the turbine. Other assets, such as those in Betley village are located so that principal views are within the village itself or not in the direction of the turbine. There are also other intervening features to ensure that the turbine will not be visible in the foreground. There is no visual link between Heighley castle and Audley castle and so there would be no harm caused by the presence of the wind turbine in the landscape.

**Ministry of Defence Estates** has not responded within the deadline for comments which expired on the 22.09.2014 and it has to be assumed that they have no comments to make upon the application.

**Staffordshire Badger Conservation Group** seek clarification on a number of points detailed within the ecology assessment and recommend a further survey of the fields when more favourable conditions are present. However, they agree with the recommendations regarding mitigation, the amendment of the development design or use of a disturbance licence from Natural England.

## Representations

16 letters of representation have been received raising the following objections;

- It would result in an unacceptable level of noise and the health problems for nearby residents,
- Shadow flicker would cause a detrimental impact on health of nearby residents and highways safety,
- It would have a detrimental impact on the landscape due to its height and dominance,
- Substantial weight should be given to the impact on the Green Belt,
- The turbine would be dominant and intimidating to footpath users,
- It would destroy the area's heritage and beauty,
- Wildlife and Craddocks Moss wet-lands would be adversely affected,
- Significant highway danger from HGV's during the delivery and construction period,
- Noise, light flicker, concrete bases, infrastructure and loss of unspoiled countryside are forms of pollution,
- It would be an industrial structure encroaching into the countryside,
- Wind turbine noise is highly intrusive even at very low amplitude below 30db,
- The benefits of power output is limited with increasing concerns about the environmental costs and consumer subsidy costs of onshore turbines,
- The photomontages are prepared in summer. The picture would look much worse in the winter months,
- Still pictures of distant objects are notoriously ineffective in providing a real life assessment of a large moving object,
- Additional photomontages should be prepared,
- Property prices would be adversely affected requiring compensation from the applicant,
- It would ruin the enjoyment of the rural landscape by many users,
- The noise from the turbine may affect animals,
- Appropriate public consultation has not been carried out,
- There is no traffic management plan,
- Listed buildings and structures would be harmed by highway movements and works,
- Turbines are dangerous structures,
- Are the submitted plans accurate?
- Applications by this company have been rejected by other authorities.

## Applicant/agent's submission

The application has been supported by a Planning Statement which includes a design and access statement. The Planning Statement includes a number of topics which include, social and economic context, planning policy, other material considerations, planning evaluation. A summary of the key points are as follows;

### Benefits

- The provision of energy from a renewable source, amounting to approx 1.53 million kWh per year, the equivalent of providing electricity to 368 homes per year,
- A suitable contribution to address climate change and to meet national renewable targets. The proposal will offset approx 658 tonnes of CO<sub>2</sub> per year,
- Appropriate farm diversification, leading to a reduction in farming costs for the landowner,
- Compliance with national and development plan policies,
- No adverse impact on landscape character, residential amenity, heritage assets or ecology features,
- The on-site wind resource - with the wind speed at hub height measuring 6.8m/s,

### EIA consideration

- It is considered that the scale of the proposed development at Fields Farm falls short of any threshold and that its likely environmental impact is not significant enough to warrant an Environmental Impact Assessment,

### Site location and description

- The proposal site is accessed from Church Lane, between Betley and Heighley. The application site itself is located within an existing agricultural arable field, with indigenous hedgerows on the field boundaries,
- The site lies within a relatively sparsely populated area. The nearest other residential properties are Heighley Cottage, some 550m to the northeast; Craddocks Moss, 610m to the east; and Monkey Tree Cottage, 595m to the southeast of the turbine position,
- The proposed wind turbine will have a hub height of 50m and would be a maximum of 77m in height to blade tip,
- The development will include any necessary associated infrastructure, including appropriate substation and underground cabling link to the nearest available overhead power lines,
- The access route from Church Lane will utilise a temporary site entrance, then will follow a temporary track linking in to the existing farm track, before using a newly constructed permanent track built across the turbine field, to allow access for maintenance over a 20 year period,

#### Social and Economic Context

- This proposal will provide energy from a renewable source,
- The turbine will also act as a landmark for the area and will encourage people to think about green-issues such as renewable energy, recycling and energy saving measures,
- The proposal is of benefit to the environment whilst simultaneously reducing farming costs for the landowner,
- The turbines will provide a small contribution to climate change and renewable targets, the NPPF makes it clear that such benefits, whatever their scale, are material considerations that should be given significant weight in determining planning applications,

#### Landscape

- The site has no specific landscape designation. The site lies within the Shropshire, Cheshire and Staffordshire Plain National Landscape Character Area,
- Staffordshire Landscape Character Assessment - The Character Assessment was adopted in March 2013. It places the site within the Ancient Clay Farmlands Landscape Character Type,

#### Heritage Assets

- Heighley Castle Scheduled Ancient Monument and Grade II Listed Building, 750m south of the site,
- 35 Listed Buildings in the village of Betley,
- Grade I St Margaret's Church and Grade II\* Betley Court,
- The village is a designated Conservation Area,
- 5 Grade II Listed Buildings in Wrinehill,

#### Landscape Visual Impact Assessment

- The LVIA concludes that, "Overall, it is considered that the proposed turbine can be accommodated without unacceptable landscape and visual effects. Significant effects are contained within relatively close proximity of the turbine and will affect a limited number of receptors, as topography and natural screening features combine to filter the effects to the wider area".
- There is only one operational turbine within proximity of the application site, a 35m tip height Endurance turbine at Lower Den Farm, to the west of Betley, within Cheshire East's jurisdiction,
- This turbine is 3kms from the application site and of a different scale. It is considered that the proposal will not result in any unacceptable cumulative effect or create a "wind farm landscape".

#### Green Belt

- It is considered that there are special circumstances that allow the proposal,
- The generation of renewable energy is a special circumstance,
- The electricity generated by the proposed wind turbine would be sufficient to power the requirements of 368 homes and would save at least 658 tonnes of Carbon Dioxide from being released into the atmosphere,

- The proposal for the turbine is the landowner's choice to maximise his business income in an appropriately windy location,
- Small farms are struggling in today's market and the income generated by the turbine would ensure that the farming legacy is continued,

#### Heritage Impact

- A bespoke Heritage Statement has been prepared by Trigpoint, qualified, professional conservation consultants which concludes that the construction of the proposed wind turbine will not have any adverse impact on any local heritage assets. This proposal therefore complies with the requirements of the Listed Buildings and Conservation Areas Act and the objectives of the NPPF and the local planning policies, that seek to ensure that the significance of heritage assets are not lost through development within their setting

A noise report, ecology assessment and routeing assessment and traffic management plan have also been submitted to support the application. A letter has also been received from the applicant's representative addressing the issues raised by objectors and consultees.

The application material is all available to view via the following [www.newcastle-staffs.gov.uk/planning/1400636FUL](http://www.newcastle-staffs.gov.uk/planning/1400636FUL)

## **1. KEY ISSUES**

1.1 The application is for the installation of a 500kw wind turbine (maximum tip height 77m) and associated infrastructure, including an access track at Fields Farm in Betley. The application also involves the diversion of a public footpath. The site lies within the North Staffordshire Green Belt, within the Rural Area, and within an Area of Landscape Enhancement, as indicated on the Local Development Framework Proposals Map.

1.2 The main issues for consideration are:-

- Is the proposed development is appropriate or inappropriate in Green Belt terms?
- Is the principle of the development, acceptable?
- Does the development comply with policies on development in the countryside and impact on the character and appearance of the landscape?
- Would there be harm to the setting of heritage assets?
- Would there be any material adverse impact on residential amenity?
- Would there be a severe adverse impact from the access and construction phase on highway safety?
- Would there be an adverse impact on users of the public footpath?
- Would there be an adverse impact on the ecology of the area?
- If inappropriate in Green Belt terms, do the required very special circumstances for the development exist as to justify approval?

## **2. Is the proposed development is appropriate or inappropriate in Green Belt terms ?**

2.1 The site is located within the Green Belt. In these locations the NPPF details that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence; and their purposes include that of assisting in safeguarding the countryside from encroachment

2.2 The installation of a wind turbine does not meet any of the definitions of appropriate development as detailed within the NPPF and paragraph 91 indicates that "*When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if*

*projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.”*

2.3 Therefore the proposal is considered to represent inappropriate development and should not be approved except in very special circumstances (para 87).

### 3. Is the principle of the development acceptable?

3.1 A core principle of the NPPF is the use of renewable resources of which the development of renewable energy is one.

3.2 Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

3.3 Paragraph 98 of the NPPF details that “When determining planning applications local planning authorities should;

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- approve the application, unless material considerations indicated otherwise, if its impacts are (or can be made) acceptable..”

3.4 This message is carried forward into the local development plan with the adopted Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy containing a policy (CSP3) on Sustainability and Climate Change which refers in general terms to the encouragement of development which positively addresses the impacts of climate change.

3.5 In determining planning applications the NPPF details that “in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.”

3.6 The applicant has detailed that the proposed turbine would generate approximately 1.53 million kWh per year which is the equivalent of providing electricity to 368 homes (per year). It would also make a suitable contribution to address climate change and to meet national renewable targets. The proposal will offset approx 658 tonnes of CO2 per year. It would also promote appropriate farm diversification, leading to a reduction in farming costs for the landowner.

3.7 In consideration of the strong policy support for developments that assist in meeting the challenge of climate change and the contribution that renewable energy sources has on this objective it is considered that the proposed development meets the guidance and requirements of the NPPF.

### 4. Does the development comply with policies on development in the countryside and impact on the character and appearance of the landscape?

4.1 The proposed turbine would be located within a field that forms part of the agricultural unit of Fields Farm. The turbine would have a hub height of 50 metres with a maximum height of 77 metres to the blade tip. The turbine would sit on a concrete pad along with a substation. Underground cabling would link the equipment to overhead power lines nearby and a temporary access track and permanent maintenance track are proposed.

4.2 Whilst details have been provided of the proposed turbine the applicants have asked that any approval should be subject to conditions that allow for the purchase of an alternative model of turbine. This is also applicable for the access/construction areas with the full details of the precise format only being available closer to the installation date. Suitable conditions could be

imposed to secure the submission and approval of these details prior to any work and activities commencing.

4.3 The access route from Church Lane will utilise an existing entrance through the main farm with a temporary track linking to an existing track before a further track connects to the turbine infrastructure.

4.4 The land is designated as an area of landscape enhancement (NLP policy N20) which seeks to enhance the character and quality of the existing landscape. The area is rural in character with farmsteads and agricultural land being the main attribute of the area but there is a sporadic distribution of residential properties throughout the landscape.

4.5 The proposed development due to the height of the turbine and the infrastructure required would undoubtedly have an impact on the area due to it introducing a commercial structure and apparatus within this rural landscape.

4.6 The application has been supported by a Landscape and Visual Impact Assessment (LVIA) which has been prepared based upon the Guidelines for Landscape and Visual Impact Assessment, third edition (GLVIA3).

4.7 The site lies within National Character Area 61 (NCA 61), "*Shropshire, Cheshire and Staffordshire Plain*".

4.8 The Staffordshire County Council document 'Planning for Landscape Change' identifies the location of the proposed turbine site as being within the 'Ancient Valley Farmlands' landscape character type. The visual character of these areas is predominantly mixed arable and pastoral farmland with varying tree and hedgerow density and landform which give changing scales from medium to large. The visual character is also gently rolling landform with a predominantly rural feel, with small winding country lanes, large red brick farms and numerous old villages, with localised industrial and commuter development not impacting to any great extent on the general character.

4.9 The submitted LVIA identifies the overall sensitivity of the local landscape to be Medium/High. It also details that the main focus of the assessment is the turbine due to its size and permanence with the potential for visibility from Betley, Ravenshall, Wrinehill and Madeley. However, the main views would be from public footpaths immediately adjacent to the site and Knowlbank Road and Church Lane. Views from the M6 and A531 (to the south and west) may also be possible but at a distance of more than 1km.

4.10 The first stage in the assessment is to map visibility. This can be done by a computer Zone of Theoretical Visibility (ZTV), or by manual methods, using map study.

4.11 The ZTV is carried out for a 25km radius of the proposed turbine location and identifies 11 viewpoints and photomontages have been prepared to show the likely appearance from these viewpoints and the impact.

4.12 The LVIA concludes that the installation of the turbine would result in a Moderate/Minor Adverse landscape effect over an area up to approximately 1.5km from the turbine, reducing beyond this range to become Minor Adverse/Negligible beyond 2.5km. The vegetation and screening limit the impacts on visual amenity, settlements and road users. The most significant visual effect would be experienced by the closest route to the site where the entire turbine would be visible resulting in Major Adverse visual effects. Effects reduce with distance as the natural screening and topography begins to filter the visibility of the turbine, with Moderate/Minor Adverse effects expected from parts of the Public Right of Way west of the turbine site within 500m-1km. and no effects greater than Minor Adverse/Negligible expected from beyond this distance.

4.13 An existing turbine on Den Lane, Wrinehill that falls within Cheshire East was permitted in 2011. The cumulative impact of this existing turbine and the proposed turbine has been

acknowledged but due to its relatively small scale and the distance between the two (approx. 2.8km) the impact is considered to be limited.

4.14 As discussed the turbine at 77 metres (to the blade tip) would have an impact on the landscape due to its commercial form. The infrastructure at ground level would not be visible from the wider landscape. Landscaping could be proposed to minimise this impact and the other associated works including the temporary track would have limited harm.

4.15 The turbine could not be said to enhance the character and quality of the existing landscape due to its commercial form but officers are of the view that due to the screening and limited views it would not significantly erode and harm the landscape character and quality which would loosely comply with policy N20 of the Local Plan. Officers also agree with the conclusions of the LVIA that the overall impact would be moderate to minor. It is also considered that any impact would be outweighed by the acknowledged benefits of the renewable energy source and farm diversification elements of the scheme which will outweigh the moderate/ minor visual harm arising from the proposed turbine in this location. A number of conditions seeking colour details, the turbine and associated infrastructure removed once they cease to be required, temporary works reinstated once the turbine is operational and landscaping would also limit the overall harm of the development.

#### 5. Would there be harm to the setting of heritage assets?

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

5.2 The Council's Conservation Officer and the applicant's heritage statement have considered the impact of the proposed development on the setting of the heritage assets in the locality. The topography of the area including woodlands restricts many views of the proposed development from the heritage assets. Therefore officers are of the view that no significant harm would be caused to the setting of heritage assets in this instance.

#### 6. Would there be any material adverse impact on residential amenity?

6.1 The NPPF details in paragraph 123 that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

6.2 A number of objections have been received regarding the impact of the proposed development in terms of noise disturbance, shadow flicker and health concerns.

6.3 The application has been supported by a Noise Impact Assessment (NIA) to assess compliance with the guidance contained within ETSU-R-97 - "Assessment and Rating of Noise from Wind Farms".

6.4 It is detailed within ETSU-R-97 for single turbines or when the separation distances are large, that if the noise is limited to 35 dB  $L_{A90,10min}$  up to wind speeds of 10m/s-1 at 10m height, then this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary. In addition ETSU-R-97 indicates that the fixed lower limit for properties financially involved with the proposed turbine can be increased to 45dB LA90.

6.5 The NIA details that the nearest noise sensitive location is Heighley Farm at approximately 545m away. The results of the assessments details that the worst case predicted noise level at the nearest residential receivers which do not have a financial involvement with the turbine do not exceed the 35 dB LA90 ETSU-R-97 simplified noise limit. The calculation results therefore indicate that the noise levels generated by the proposed 500kW turbine are compliant with

ETSU-R-97. This has resulted in the Environmental Health Division raising no objections subject to the condition advised in the NIA and ETSU-R-97. Therefore no significant adverse harm should be caused to noise sensitive receptors.

6.6 The issue of Shadow Flicker was covered in Planning for Renewable Energy – A Companion Guide to PPS22 and the Department of Energy and Climate Change prepared an 'Update of UK Shadow Flicker Evidence Base'. The risk of shadow flicker and the harm caused is likely to be minimal. However, the applicant will be required to submit further information to demonstrate that shadow flicker would not have an adverse impact on nearby residential properties and if it does what mitigation measures can be carried out to minimise any impact.

6.7 The nearest residential properties are over 500 metres from the application site and the area has a high level of vegetation, woodland and trees within an undulating landscape and so the likely impact on health and the amenity of residents is likely to be minimal and conditions would further mitigate any adverse impact.

7. Would there be a severe adverse impact from the access and construction phase on highway safety?

7.1 The application is supported by a Delivery Route Assessment (DRA) and Traffic Management Plan which has been revised following a number of concerns expressed by the Highways Authority (HA) and residents. The main concerns have been the delivery of the turbine and infrastructure due to the constraints within Betley village, in particular the junction of Bowhill Lane and Church Lane which is narrow in parts.

7.2 The above objections have resulted in an amended DRA being submitted which provides greater detail, as advised by HA. The DRA now identifies and considers the development proposals, the timescales for construction, the number and size of vehicle trips likely to be generated during the construction and operational phases. It also reviews the route that construction vehicles will take, and presents a drawing showing the swept path analyses of the largest vehicles accessing the site along the route. Finally it proposes traffic management measures to prevent damage to the public highway, and implement any repairs required as a result of the construction of the wind turbine.

7.3 Key points identified in the revised DRA are that the development will be completed in two phases. Phase One comprises the preparation of the site and the foundation works, and lasts approximately two weeks. Phase Two then comprises the installation of the wind turbine, approximately one month later. Phase Two will last approximately one week. Where possible, all deliveries (limestone, concrete, and wind turbine components) will be organised to occur during the working week, and outside of the highway network peak periods and school peak hours. The applicant will give at least three months notice of the traffic management requirements. This will limit the impact on highway safety and amenity levels of the area.

7.4 The HA has now raised no objections to the proposed development subject to the conditions advised

7.5 The revised DRA is now considered acceptable subject to the conditions advised by HA and the mitigation measures identified within DRA which should minimise any disturbance to the community and highway network which would be in accordance with the general requirements and principles of the NPPF.

8. Would there be an adverse impact on users of the public footpath?

8.1 Paragraph 75 of the NPPF details that planning policies should protect and enhance public rights of way and access and local authorities should seek opportunities to provide better facilities for users

8.2 The application documents recognise the need to divert Public Footpath No 15 Betley to ensure an acceptable fall-over distance can be achieved. The PROW officer has questioned this but the applicant has advised that the proposed wind turbine would not oversail the path and



would just exceed the fall-over distance from the new route proposed. In this respect, no disruption to users should occur.

8.3 An application has been received to divert the public footpath which currently runs across the agricultural field. The new route would divert the existing route so that it follows the field boundaries. An application has been submitted to the planning authority but Legal advice received is that it is possible for the council to make an order under section 257 Town and Country Planning Act 1990 so long as planning permission has been granted under part 111 of the act and the Council is satisfied that it is necessary for the diversion to be commenced in order to enable the development to be carried out.

8.4 The proposed route is considered a logical one and subject to the final siting and design of the turbine being over 77 metres from the revised route it is considered to be acceptable.

9. Would there be an adverse impact on the ecology of the area

9.1 An ecology assessment has been submitted to support the application which considers the impact of the proposed development on habitats, protected species and wildlife within the area. The assessment comprised an Extended Phase 1 habitat survey. It details that the survey area is considered to be of low to moderate ecological value in terms of habitats. The wider area is dominated by a similar mosaic of woodland, hedgerow and agricultural fields set in an undulating landscape.

9.2 Policy N3 of the NLP details that consideration of the impact of proposed development upon wildlife and where permitted development proposals will be expected to avoid or minimise any adverse effects and, where appropriate, to seek to enhance the natural heritage of the Borough.

9.3 The ecology assessment details that the likely impact on protected species, habitats birds and other wildlife would be limited and mitigation and enhancement measures are recommended. A condition seeking these mitigation and enhancement measures is considered suitable. In particular a number of mitigation measures and surveys should be carried out prior to any works commencing particularly with regards to hedgerows in association with the route assessment and works (especially vegetation clearance) to avoid the breeding season (March to September inclusive). This could be secured via a separate condition.

9.4 A badger survey has been conducted and Staffordshire Badger Conservation Group has provided comments on the application. They have queried a number of points and these will be passed onto the applicant but generally they have no objections and agree with the recommendations set out.

9.5 In terms of specific objections about the impact on wildlife and Craddocks Moss wet-lands the submitted ecology assessment identifies these as Non-statutory designated sites and no direct or indirect effects are anticipated on any of these sites.

10. Do the required very special circumstances for the development exist to justify approval of a development that is inappropriate in Green Belt policy terms?.

10.1 Paragraph 87 of the NPPF details that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."The NPPF further details in paragraph 88 that "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."

10.2 In order to weigh in the balance the harm and other material considerations or benefits, it is necessary to first identify what harm arises from the proposal, other than that which inappropriate development causes by definition. The proposed development would result in a reduction in the openness of the Green Belt from the proposed structures and the development can be considered to be contrary to that purpose of including land within Green Belts that refers to safeguarding the countryside from encroachment. The overall effect on the openness of the

Green Belt is considered limited despite the height of the turbine and the footprint of the structure due to it being for one structure rather than a number of turbines of a smaller height. There would also be some landscape harm but as already indicated this has been assessed at present as being quite limited in degree with no other substantive harm being identified.

10.3 A core principle of the NPPF is the use of renewable resources of which the development of renewable energy is one. Furthermore, in Green Belts the NPPF details that the very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. In this instance the benefits identified by the applicant would be significant despite the development being for one turbine only. The height proposed maximises the wind energy potential and energy output.

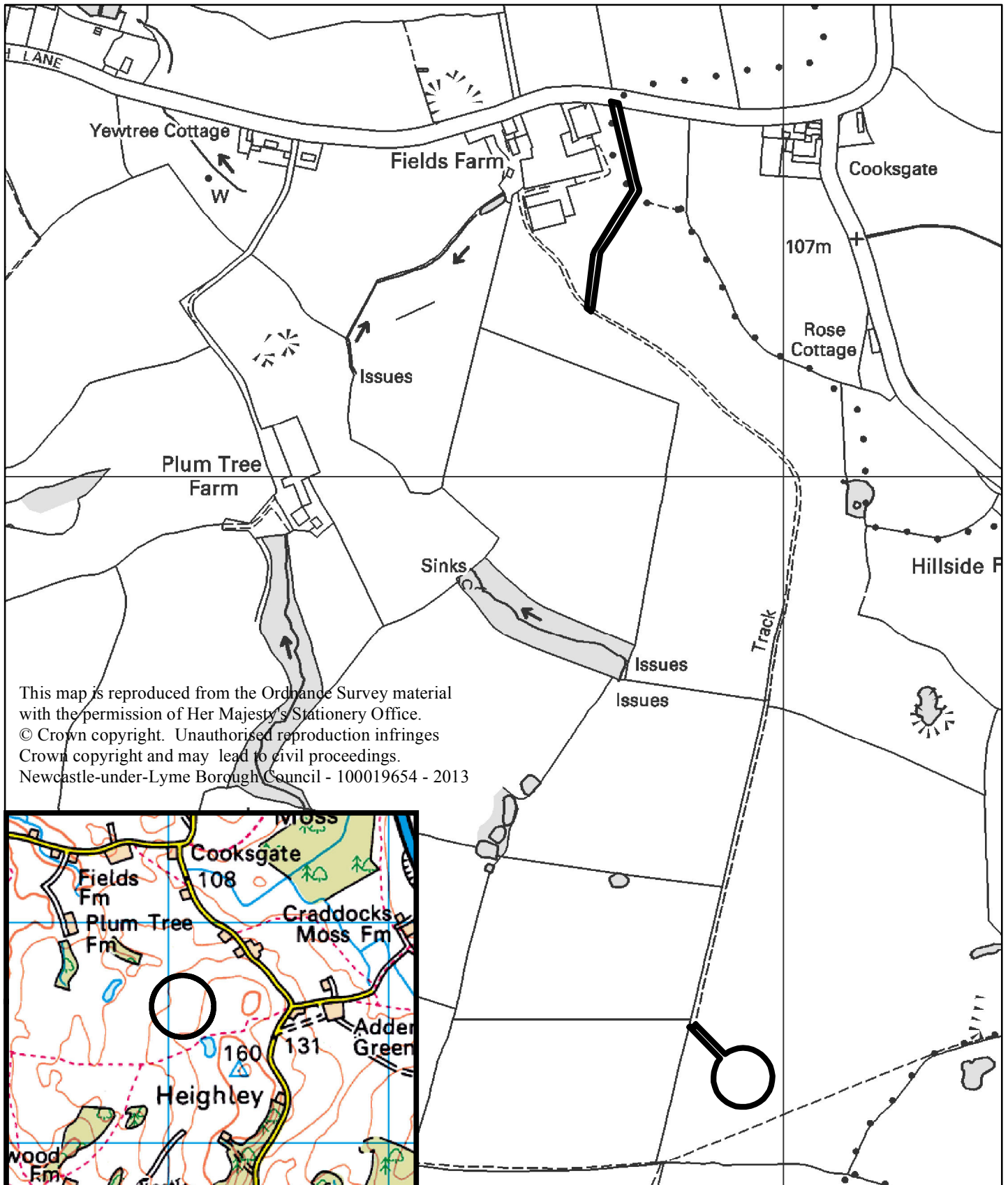
10.4 Weighing these matters in the balance and having particular regard to the moderate to minor landscape impact it is considered that the benefits do outweigh the harm identified and accordingly that it would be appropriate to grant planning permission.

### **Background Papers**

Planning file  
Planning documents referred to

### **Date report prepared**

05 November 2014



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**RAMSAY ROAD COMMUNITY CENTRE  
GARAGE AND STORAGE SHED**

**14/00748/FUL**

The report is to consider an application which seeks planning permission for a detached garage and storage shed at the Ramsay Road Community Centre. The proposed garage would be used to house a St Johns Ambulance.

The application site is located on the corner of Ramsay Road and Laxley Road, within a residential area of Cross Heath, and within the Newcastle urban neighbourhood as indicated on the Local Development Framework Proposals Map.

**The statutory 8 week determination period for the application expires on the 25 November 2014**

**RECOMMENDATION**

Approve; subject to conditions relating to the following:-

1. Commencement of development within 3 years
2. Materials and plans as per application

**Reason for recommendation**

The proposed detached garage and storage shed are considered to have an acceptable visual impact within the character of the area, and would not adversely affect the streetscene. The proposed development would not adversely affect the amenities of neighbouring dwellings, or impact upon the local highway network.

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

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

**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 T16: Development – General Parking Requirements

**Other material considerations include:**

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (2014)

Relevant Planning History

None relevant

## Views of Consultees

**Environmental Health:** No objections

## Representations

None received to date

## Applicant/agent's submission

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

[www.newcastle-staffs.gov.uk/planning/1400748FUL](http://www.newcastle-staffs.gov.uk/planning/1400748FUL)

## **KEY ISSUES**

The application site contains the Ramsay Road Community Centre, located off Ramsay Road. The application seeks planning permission for the erection of a detached garage and store within the site.

The principle of providing a garage and storage to the community centre within the residential area is considered to be acceptable, subject to;

1. Design of the buildings, and whether this would be acceptable within the streetscene
2. Impact upon residential amenity
3. Impact upon the local highway network

## **Design and Character of the Area**

Policy CSP1 of the Core Spatial Strategy outlines how the design of new development is assessed which includes amongst other requirements the need to promote and respect the areas character and identity.

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

The application site is situated within a predominantly residential area, on the corner of Ramsay and Laxley Road. The proposed garage would be toward the entrance of the site on Laxley Road, and would be sited behind the existing sub-station. The proposed garage would measure approximately 3.7m in height, 7.3m in depth and 3.8m in width. The proposed structure would be of pre-fabricated construction, with wooden doors to the front elevation. The garage would be of acceptable appearance in relation to the Community Centre.

The proposed storage shed would be located within the site, just south of the Community Centre. The storage shed would measure 2m in height, and 1.8m in width and depth. The structure would be fabricated in the same materials as the garage, however it would have steel doors.

The proposed garage would be located towards the rear of the substation, resulting in views of the garage being limited within the streetscene. The proposed garage is considered to be

of acceptable scale and design, and would not adversely affect the character of the area. Similarly, the storage shed would be positioned within the site, and would be small in scale which is considered to be acceptable.

The visual appearance of the garage and storage shed is considered to be acceptable in relation to the character of the Community Centre and character of the area.

### **Residential Amenity**

The Framework states within paragraph 9 states that pursuing sustainable development involves seeking positive improvements in peoples quality of life, including improving the conditions in which people live, work, travel and take leisure. The impact upon the amenity of surrounding residents has to be taken into consideration. Paragraph 17 sets a core planning principle that planning should seek to secure a good stand of amenity for all existing and future occupants of land and buildings.

The proposed garage would be located approximately 18m away from the neighbouring residents on Laxley Road who back onto the site. This distance would be sufficient to prevent any adverse impact upon the amenities of these neighbours. The proposal would not adversely affect any other neighbouring dwelling.

The proposed storage shed is located within the site, at an offset angle to No.34 Ramsay Road. Due to the shed's height and offset position, it is not considered that the shed would adversely affect the amenities of this property in terms of space, outlook and privacy.

Whilst the garage would be used for the storage of an ambulance, it is unlikely that such storage would result in the adverse disturbance of neighbours in terms of noise. The Environmental Health Division consider that any noise created as a result of the development is likely to be short term and intermittent.

### **Highways**

The siting of the proposed garage would result in the loss of two parking spaces within the site; however this would not greatly affect the existing parking arrangement on site when considering the size of the existing building.

The remaining parking on site is therefore considered to be acceptable and as such the proposed development is unlikely to adversely affect the existing highway.

#### Background Papers

Planning File

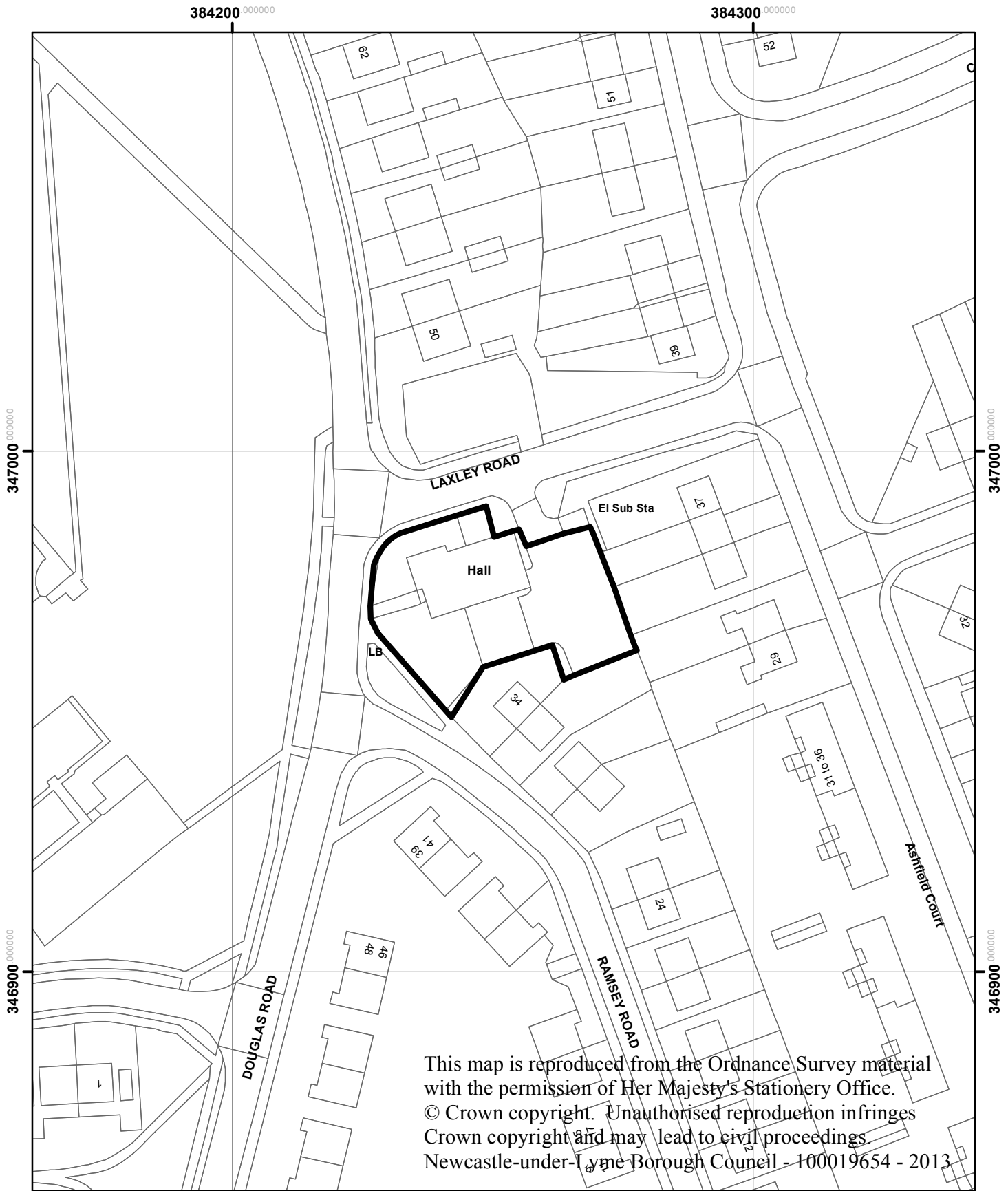
Development Plan

Date report prepared 30/10/14

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# Ramsay Road Community Centre, Cross Heath 14/00748/FUL



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KEELE DRIVING RANGE, KEELE ROAD

14/00813/TDET1

The application is for a determination as to whether prior approval is required for the for the siting and appearance of a replacement of the existing 15m high monopole with a new 17.5 metre monopole accommodating antennas, transmission dishes and ancillary equipment. The upgrade will facilitate the use of the site by O2 and Vodafone.

The site lies within the rural area, the green belt as indicated on the Local Development Framework Proposals Map.

**Unless a decision on this application is communicated to the developer by the 10 December 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. However, anticipating that the decision of Committee may be different and in assessing its siting and design it is considered that the replacement structure would not harm the visual amenity of the area due to its acceptable height, design and location within the street scene. The proposal would also avoid the need for an additional structure of a similar size and design within the area to meet the network requirements and support the expansion of the communications network in this area. The proposal would therefore meet the guidance and requirements of the NPPF and it would also comply with policy T19 of the Newcastle under Lyme Local Plan as well as policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS).

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

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

Policy CSP1: Design Quality

Newcastle under Lyme Local Plan 2011

Policy T19: Telecommunications Development – General Concerns  
Policy T20: Telecommunications Development – Required Information  
Policy S3: Development in the Green Belt  
Policy N17: Landscape character – general considerations

## **Other Material Considerations include:**

National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Policy Guidance (2014)

### Relevant Planning History

06/00149/TDET            14.7 metre high telecommunications streetworks telegraph pole with associated equipment cabinets  
Refused March 2006  
Appeal allowed March 2007

### Representations

None received. Public consultation expires on the 15 November 2014, therefore any representations that are received will be reported to Planning Committee via a supplementary report.

### Views of consultees

**Keele Parish Council:** No comments to date

The **Environmental Health Division** has no objections to the proposal as a declaration form for the conformity with ICNIRP has been submitted with the application.

### Applicant/agent's submission

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

- The existing 15m high monopole will be removed and replaced with proposed 17.5m high monopole to the south of the compound, and the existing 3 No. antennas will be removed and placed on the proposed pole.
- One of the existing equipment cabinets will be removed and replaced by a cabin measuring 0.5m by 0.5m to house the proposed equipment.
- The existing 15m pole would be removed and its concrete base. The proposed 1
- The upgrade will enable the site to be utilised by O2 and Vodafone site sharing network and thus this facility adheres to the site sharing policies of the Local Planning Authority and the National Planning Policy Framework.
- The compound fencing would be increased to house the proposed monopole
- The site is located within the open countryside and within the Green Belt
- Whilst the height of the monopole has increased, it would be sited within an existing compound, therefore having less visual impact than the creation of a pole elsewhere.

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

The full document is available for full inspection at the Guildhall and on the Council's website at [www.newcastle-staffs.gov.uk/planning/1400813TDET1](http://www.newcastle-staffs.gov.uk/planning/1400813TDET1)

### **KEY ISSUES**

The application is for a determination as to whether prior approval is required for the siting and appearance of a 17.5 metre monopole to replace an existing 15 metre high monopole, and the installation of ancillary equipment.

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

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

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

As such there is national policy support in principle for telecommunications development and this must be taken into consideration when reaching an initial decision on whether prior approval is required, and also in 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 in the rural area at Keele Driving Range set some distance from the road and residential properties.

Due to the location of the site set well back from public vantage points on Keele Road, it is considered in this instance that prior approval is not required for the design and siting 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.

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

Policy T19 of the Local Plan supports proposals for telecommunications development that do not unacceptably harm the visual quality and character of sensitive areas and locations such as the countryside and do not adversely affect the amenity of nearby properties. Such development is also supported provided that there are no other alternative suitable sites available.

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

The existing structure is located at Keele Driving Range, approximately 70 metres from Keele Road.

The replacement mast would be 2.5 metres higher than the existing mast (overall height of 17.5m metres to the top). It would not involve mast sharing, however the applicant states that the mast would fit within the wider 02/ Vodafone site sharing network. The monopole would be slightly wider than it currently is, however this is considered a minor increase in width of the monopole which would not have a significant impact upon the visual amenity of the surrounding area.

The increase height of the replacement structure would result in it being marginally more prominent in the locality. The design is considered the optimum solution that would have the least amount of impact on the visual amenity of the area due it being a mast share, it having a simple, slim design.

Proposed equipment will be housed inside a new small equipment cabin that would not be visually obtrusive.

The proposal, whilst it is 2.5 metres higher than the existing, is not considered to result in a significant and harmful impact to the visual amenity of the area. The proposal is therefore considered to comply with local and national telecommunications policies and that prior approval should be granted.

### **Background Papers**

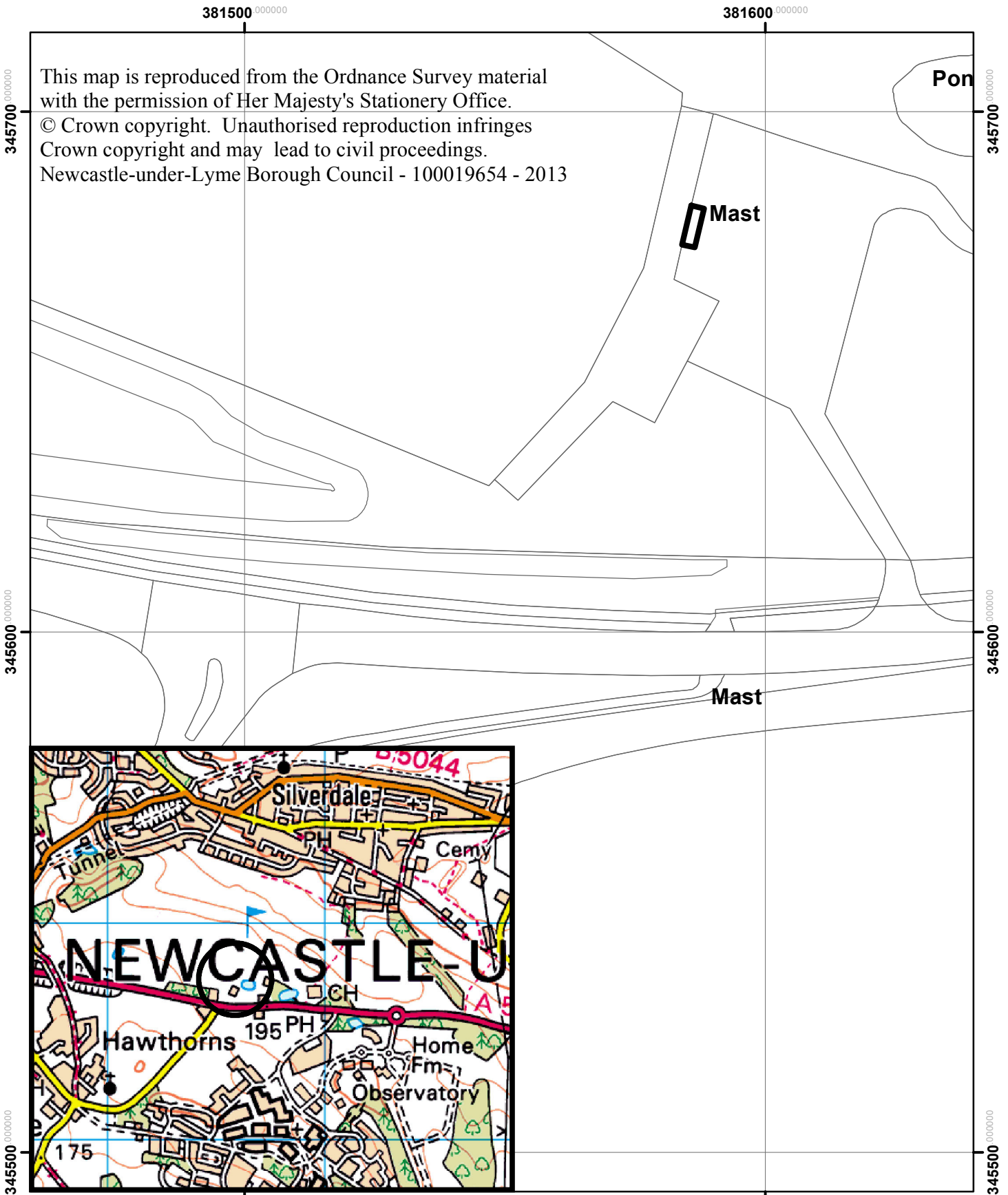
Planning File referred to  
Planning Documents referred to

### **Date report prepared**

30<sup>th</sup> October 2014

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# Keele Driving Range and driving shop 14/00813/TDET



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**APPEAL BY MR P BROOKS AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR 6 BUNGALOWS ON LAND ADJACENT TO SLACKEN LANE, BUTT LANE**

<b><u>Application Number</u></b>	<b>13/00266/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee 23<sup>rd</sup> July 2013</b>
<b><u>Appeal Decision</u></b>	<b>Appeal allowed, costs claim dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>23<sup>rd</sup> October 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00266/FUL) and the following is only a brief summary.

The Inspector concluded that the main issues in this case are the effect of the proposed development on (i) the potential for the supply (quantum) of housing on the adjacent land and (ii) the character and appearance of the area. In allowing the appeal, the Inspector made the following comments:

- Planning permission was granted in 2013 for the erection of four dormer bungalows and one bungalow on the site. This permission has been included in the Council's five-year housing land supply. The current appeal seeks to add a further bungalow on land to the rear of No 17, increasing the number of dwellings proposed on site to six.
- The Council acknowledges it cannot currently demonstrate a 5 year supply of housing land and therefore the housing policies in the development plan cannot be considered to be up-to-date. In this situation the presumption in favour of sustainable development set out in the NPPF means that permission for development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate that development should be restricted.
- The land adjoining the appeal site is identified in the Newcastle-Under-Lyme Strategic Housing Land Availability Assessment (SHLAA) as a potentially developable site, which could contribute towards housing supply for years 6-10 of the plan period. This site, which is 1.9 hectares in size, is referred to as Site 5 in the SHLAA. Together with the adjacent land, Site 5a, the SHLAA indicates that this area, which extends to about 8.10 hectares, could accommodate around 140 dwellings.
- The LPA suggested that the proposed dwelling situated to the rear of No 17 would significantly and demonstrably impact on the future development of the adjoining site, referring to their Space Around Dwellings SPG, in particular separation distances between dwellings and provision of private amenity space. A diagram has also been provided indicating how the appeal development could impact on the adjacent land when applying these guidelines. The Council assert that this introduces an unacceptable loss of privacy between primary windows in neighbouring properties.
- The SPG indicates that only where one or both of the facing dwellings are two storeys in height would a separation distance of 24m be necessary. Therefore, with a single storey dwelling, a guideline distance of 21m rather than 24m would be applicable in this case.
- The Council have suggested that the appeal development could affect up to 0.12 hectares or 6% of SHLAA site 5 when applying SPG guidelines. Even accounting for the diagram and explanation provided in their statement, it is difficult to establish how this figure was arrived at. Nevertheless, the Council suggest that SHLAA sites 5 and 5a have a combined capacity of 140 dwellings. This equates to a density of 17.2 dwellings per hectare. The potential loss of 0.12 hectares of the adjoining site, based on the above figures, taking the worst case scenario would amount to the equivalent of about 2.06 dwellings.
- The Inspector concluded that the area affected could be smaller than the 0.12 hectares suggested by the Council. Therefore the appeal development has the potential to replace any dwellings that might be lost on the adjacent land as a result of granting permission here.

- The SPG only provides guidance for the layout of new development and the guidance is flexible.
- The Inspector concluded that any potential impact on the future supply of housing on the adjacent land would be limited, and not outweigh the benefits of the appeal development, which would contribute towards the Council's 5 year supply of deliverable housing.
- The varied layout and orientation of the appeal scheme would be consistent with the mixed pattern, form and structure of the area.
- The dwelling to the rear of the site would not be cramped into the site as it would benefit from an extensive rear garden and a parking area to the front of the property, increasing the sense of spaciousness. The established landscaping and simple design and limited height of the bungalows would further reduce its impact.
- The Inspector concluded that the appeal development due to its design, form and layout would preserve the character and appearance of the area.
- The Inspector considered that provision towards the Newcastle (urban) Transport and Development Strategy (NTADs) would be necessary to make the development acceptable and would comply with the three tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### **Costs Decision**

In refusing the application for an award of costs, the Inspector made the following comments:

- The applicant's claim is two-fold. Firstly, that the Council failed to provide evidence to substantiate its reason for refusal, and secondly, the Council demonstrated a predisposition to refuse the application and failure to engage with the applicant during the process.
- The Committee report provides discussion on the merits of the case, identifying harm to both the character and appearance of the area, and in particular the future delivery of housing on the adjacent land.
- The Council appeal statement provides further clarification on these matters, identifying how the scheme could impact on the adjacent site when applying the separation distances in the Space Around Dwellings Supplementary Planning Guidance 2004 (SPG).
- The Inspector was satisfied that the Council has provided sufficient evidence to substantiate its reason for refusal, and unreasonable behaviour has not been demonstrated in this respect.
- It is evident from the various emails and correspondence, and their differing recommendations to committee that officer's views on the merits of the scheme evolved during the application process. This is not an uncommon occurrence, particularly when, as in this case, additional evidence is provided which resolves potential reasons for refusal, or alters the recommendation. As such, officers did not demonstrate a predisposition to refuse the application.
- The appellant suggested that members of the planning committee did not approach the decision making process with an open mind and were looking for reasons to refuse the application, however the Inspector was not provided with full details of events of these meetings and cannot determine whether this was the case. Members are entitled to form their own views on the respective merits of a proposal and the Inspector cannot conclude that members of the planning committee demonstrated a predisposition to refuse the application.
- Although the appellant disagrees with the explanation given for refusing the application, this does not represent a lack of engagement on behalf of the Council. The Inspector therefore found that the Council did fully engage with the appellant and unreasonable behaviour cannot be demonstrated in this regard.
- The Inspector concluded that unreasonable behaviour resulting in unnecessary expense has not been demonstrated and an application for an award of costs should not succeed.

**Recommendation**

That the decisions be noted.

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**APPEAL BY MR PHILLIP LOMAS AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR A DETACHED DWELLING ADJACENT TO 48 HIGH STREET, ROOKERY**

<b><u>Application Number</u></b>	<b>14/00274/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers 10 June 2014</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Date of Appeal Decision</u></b>	<b>22 October 2014</b>

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 14/00274/FUL) and the following is only a brief summary.

The Inspector considered the main issues to be whether the proposal is inappropriate development in the Green Belt; the effect of the proposal on the openness and character of the Green Belt; if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. In allowing the appeal, the Inspector made the following comments;

- Paragraph 89 of the NPPF states that other than in the case of a number of specified exceptions, the construction of new buildings should be regarded as inappropriate in Green Belt. One of these exceptions is 'limited infilling in villages'.
- The Council does not consider that this exception applies, arguing that the site is not within a village. However The Inspector stated that Rookery appears to be an identifiable settlement of some substance with a range of dwellings and facilities such as a shop, fish and chip shop, pub and hairdressers.
- Whilst the area is not defined as a village within the development plan, it is considered the area has the character of a village and is located on High Street which should be seen as a continuation of the village.
- The appeal site is located within a ribbon of development with existing dwellings either side. Accordingly, the proposal amounts to limited infilling and therefore the exception that has been highlighted applies. Accordingly, the proposal is not inappropriate development within the Green Belt.
- The proposal would have a limited impact upon openness as the site already contains a large detached garage, giving the impression of a developed site
- The addition of a dwelling within a ribbon of development would not adversely affect the character of the area.
- The provision of an additional dwelling would be a significant benefit of the scheme. The NPPF seeks to significantly boost the supply of housing.
- The development would not harm the residential amenity of No.48 High Street.
- Concerns relating to parking in the area were noted, however two parking spaces would be provided to both No.48 and the proposed dwelling.
- To conclude, the limited harm to the openness of the Green Belt is outweighed by the benefit of the new home that would be provided.

**Officer Comments**

The Council has had three appeal decisions for proposals for housing beyond the village envelope including Boon Hill Road (13/00662/OUT); dismissed and 88 Harriseahead Lane (13/00714/FUL); allowed.

In all these cases the Inspector considered the proposals in the context of the NPPF paragraph 89 which states that the construction of new buildings in the Green Belt should be regarded as inappropriate, and lists certain exceptions. In dismissing the appeal at Boon Hill Road, the Inspector concluded that the development was inappropriate in the Green Belt as it did not constitute limited infilling (as the site was adjacent to a large undeveloped gap and as

such was not in an otherwise built up frontage) or partial or complete redevelopment of a previously developed site which were identified, in the NPPF, as exceptions to the starting point in the Green Belt that new buildings are inappropriate. The Inspector's decisions for No.88 Harsehead Lane and the appeal referred to above at High Street Rookery, however, concluded that the development proposed was appropriate as in both cases it involved limited infilling in villages.

Reflecting upon the decisions in all three appeals, in determining future infill housing applications beyond village envelopes, the key consideration will be the context of the site itself. Key considerations will be whether the site is located within a built up frontage, and whether the site has good access to services and is considered to be located within a sustainable location, with less focus being placed on whether the site is located within the village envelope as defined within the development plan.

### **Recommendation**

That the decision be noted

## REPORT TO PLANNING COMMITTEE

### MID-YEAR DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2014/2015

#### **Purpose of the report**

To provide members with a mid-year report on the performance recorded for Development Management (Development Control) between 1<sup>st</sup> April 2014 and 30<sup>th</sup> September 2014. Figures for 2012/13 and 2013/14 are also provided for comparison as are targets set within the Planning and Development Service Plan for 2014/15.

#### **Recommendations**

**(a) That the report be received.**

**(b) That the Head of the Planning and Development continue to operate mechanisms to maintain current high performance levels and improve the service provided for those procedures where our level of performance still needs to be addressed.**

**(c) That the next 'Development Management Performance Report' be submitted to Committee around May 2015 reporting on performance for the complete year 2014/15.**

#### **Reasons for recommendations**

To ensure that appropriate monitoring and performance management procedures are in place and that the Council continues with its focus on improving performance, facilitating development and providing good service to all who use the Planning Service.

### **1. Background:**

For many years an extensive set of indicators have been collected to monitor the performance of Development Management. These include both "National Indicators" and those devised by this Council – "local indicators". These indicators have changed over time and officers have sought to ensure that the right things are being measured to enable us to improve performance in every area. The range of indicators included reflects the objective of providing a *balanced end to end* development management service, including dealing with pre-application enquiries, breaches of planning control, considering applications, & approving subsequent details and delivering development.

### **2. Matters for consideration:**

There is an Appendix attached to this report:-

**APPENDIX 1: 'NATIONAL AND 'LOCAL' PERFORMANCE INDICATORS FOR DEVELOPMENT CONTROL, 2012/13, 2013/14 and 2014/15:** Contains quarterly and annual figures for the national and 'local' Performance Indicators applicable during 2014/15 (comparative figures for 2012/13 and 2013/14 are also shown).

This report is a commentary on the national and local performance indicators as set out in detail in Appendix 1. It follows on from a report that was considered by the Planning Committee at its meeting on the 10<sup>th</sup> June 2014 which reported on the performance achieved in 2013/14, and discussed appropriate targets.

### **3. The performance achieved:**

6 indicators are included in the 2014/15 Planning and Development Service Plan relating to Development Management. Each these indicators have "targets" for 2014/15. It is currently predicted that the targets are unlikely to be met in all except one case.

**INDICATOR - : Percentage of applications determined within timescales:-**

- (a) 70% of 'Major' applications determined 'in time'**
- (b) 85% of 'Minor' applications determined within 8 weeks**
- (c) 92.5% of 'Other' applications determined within 8 weeks**

The above challenging targets for 2014/15 have been set 'locally' – the former comparable national targets for this indicator as set by the previous Government were 65% and 80% respectively for Minors and Others. 'Major' applications are defined as those where 10 or more dwellings are to be constructed (or if the number is not given, the site area is more than 0.5 hectares), and, for all other uses, where the floorspace proposed is 1000 square metres or more or the site area is 1 hectare or more. 'Minor' applications are those developments which do not meet the criteria for 'Major' developments nor the definitions of Change of Use or Householder Development. 'Other' applications relate to those for Change of Use, Householder Developments, Advertisements, Listed Building Consents, Conservation Area Consents and various applications for Certificates of Lawfulness, etc.

(a) In dealing with '**Major**' applications during 2013/14 we determined 62.5% within 13 weeks against the then target of 70% and as such the local target was not met. For 2014/15 a new indicator measuring decisions defined by the government as made 'in time' has been adopted, the target figure remaining 70%. Performance for the first half of 2014/15 was 85.7% which is considerably above the target. It is anticipated that a performance of around 80% will be achieved.

**TARGET FOR 2014/15 LIKELY TO BE ACHIEVED**

(b) During 2013/14 77.2% of '**Minor**' applications were determined within 8 weeks against the then target of 85%.

Performance for the first half of 2014/15 was 75.7% and the predicted result for the year against the target of 85%, taking into account actual performance up to the end of October, is that this target is unlikely to be achieved.

**TARGET FOR 2014/15 UNLIKELY TO BE ACHIEVED**

(c) During 2013/14 93.1% of '**Other**' applications were determined within 8 weeks.

Performance for the first half of 2014/15 is 77.2% compared with the 'local' target of 92.5%. The prediction for the year is that the target will not be achieved, bearing in mind performance to date and the applications in hand.

**TARGET FOR 2014/15 UNLIKELY TO BE ACHIEVED**

The prediction is that all three targets relating to speed of determination of applications are unlikely to be met primarily as a consequence of a period when posts have been vacant and staff absent due to sickness. The vacant posts remaining on the establishment have now been filled as such it is hoped that performance will start to improve, although the absence of one officer on long term sickness will continue to affect performance.

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**INDICATOR - Percentage of pre-application enquiries answered within target**

For 'Major' pre-application enquiries the target response time is 35 calendar days, for 'Minor' pre-application enquiries the target response time is 14 calendar days and for 'Other' pre-application enquiries the target response time is 10 calendar days

The performance for the first half of the year is 52.1% against a target figure in the Service Plan of 80% (performance in 2013/14 being 78.3%).

To give members some idea of volume the Service received some 591 such enquiries in the first 6 months of 2014/15 (compared to 442 for the same period last year) of which 22 were 'Major' pre-application enquiries; 181 were 'Minor' pre-application enquiries; and 388 were 'Other' pre-application enquiries.



**TARGET FOR 2014/15 UNLIKELY TO BE ACHIEVED**

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***INDICATOR - Percentage of applications for approvals required by conditions determined within 2 months***

The performance figure for 2013/14 was 66%. The figure so far this year is 64.3% and the prediction for the year is around 70% reflecting a particular focus the Service is placing on dealing with conditions applications promptly. The target for 2014/15 within the existing Service Plan is 75%. The Service received some 312 such applications in the first 6 months of 2014/15 compared to 214 in the first 6 months of 2013/14.

**TARGET FOR 2014/15 UNLIKELY TO BE ACHIEVED**

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***INDICATOR - Percentage of complainants informed within the required timescales of any action to be taken about alleged breaches of planning control.***

Performance in this area was 55.9 % in 2013/14, and performance recorded so far this year is 35.3% compared with the 'local' target of 75% (down from last year's 85%). The current prediction therefore is that it may well not be possible to achieve the target. The performance to date appears to be a result of the staffing resource issues that have been referred to above. Consideration is currently being given to the possibility of securing additional resources and hopefully this will lead to improvements in performance.

**TARGET FOR 2014/15 UNLIKELY TO BE ACHIEVED**

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**Source of information/background papers**

- 1. General Development Control Returns PS1 and PS2 for 2011/12 – 2014/15**
- 2. Planning Services own internal records, produced manually and from its uniForm modules**
- 3. Planning and Development Service Plan for 2014/15**

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**APPENDIX 1: 'NATIONAL' AND 'LOCAL' PERFORMANCE INDICATORS FOR DEVELOPMENT MANAGEMENT 2012/13, 2013/14 and 2014/15.**

Indicator	Year	Target for year	Actuals					Actual Performance (at 30.9.14)	Predicted result for 2014/15
			April - June	July - Sept	Oct - Dec	Jan - Mar			
% of 'Major' applications determined "in time"	2014/15	70%	100%	80%				(85.7%)	85%
Replaced in 14/15 former indicator of percentage of applications determined within 13 weeks	2013/14	70%	100%	75%	57.1%	33%		62.5%	
	2012/13	75%	50%	100%	66.7%	60%		66.7%	
% of 'Minor' applications determined within 8 weeks	2014/15	85%	86%	64%				(75.7%)	75%
	2013/14	85%	71.7%	77.6%	85.4%	74.1%		77.2%	
	2012/13	85%	87.5%	90.2%	92.9%	81.4%		88.0%	
% of 'other' applications determined within 8 weeks	2014/15	92.50%	95.2%	74.0%				(85%)	85%
	2013/14	92.50%	92.8%	90.1%	94.6%	96.5%		93.1%	
	2012/13	95%	93.4%	94.4%	93.0%	90.1%		92.8%	
% of pre-application enquiries answered in time	2014/15	80%	48%	55.5%				(52.1%)	60.0%
	2013/14	80%	77.3%	78.6%	79.5%	81.4%		78.3%	
% of applications for approval required by conditions determined within 2 months	2014/15	75%	67%	62.1%				(64.3%)	70%
	2013/14	75%	55%	69.7%	83.7%	57.3%		66%	
	2012/13	85%	54.8%	78.0%	60.5%	46.0%		57.7%	
% of complainants informed within required timescale of any action to be taken	2014/15	75%	44.1%	30.9%				(35.3%)	45%
	2013/14	85%	67.4%	42.9%	53.8%	58.8%		55.9%	
	2012/13	85%	75%	84.6%	46.2%	64.2%		67.2%	

Target achieved for complete year  
 Predicted result' for 2014/15 will achieve target set

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## Report on Open Enforcement Cases

### Purpose of the Report

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

### Recommendations

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

### **Background**

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

In the last quarter a further 86 new cases have been reported, higher than the previous quarter (36). The current number of open cases is 282 (75 more than at the end of the last quarter). The number of open cases this quarter has therefore significantly increased. It would appear that such an increase is in part as a result of there being considerably more than the average number of new cases combined with the absence of the Enforcement Officer during this quarter at a time that coincided with other absences from the wider Development Management Team.

The issue of resources within enforcement has been identified as part of the Planning Peer Review's recommendations and various actions will be pursued to address the current backlog which is too high.

Officers are seeking to continue to make progress in tackling the backlog. A number of the cases indicated in the Table below have associated pending planning applications awaiting determination (3 as of 21st October 2014).

6 new high hedge complaints/enquiries have been received in 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***

<b>Year</b>	<b>Total</b>	<b>Open</b>	<b>C1</b>	<b>C2</b>	<b>C3</b>	<b>BOC</b>	<b>L</b>	<b>M</b>	<b>H</b>
2014	183	130	3	93	28	-	-	-	-
2013	219	57	7	38	12	-	-	-	-

2012	229	32	9	15	8	-	-	-	-
2011	204	12	2	7	3	-	-	-	-
2010	206	9	2	6	1	-	-	-	-
2009	233	10	-	6	1	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	3	-	-	-	-	-	2	1
2001	204	1	-	-	-	-	-	1	-

Open Cases **282**  
(inc Backlog)

Previous Quarter 207

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

**Date report prepared**

21st October 2014

Planning Committee 18<sup>th</sup> November 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.

No further cases have been added since the previous report, provided to the Planning Committee at its meeting on the 5<sup>th</sup> August. 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. Of the 5 cases that were on the list at the time of the August meeting, one has now been closed, leaving 4 'open,

A report on one of the cases 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>A joint application for the same breach to the rear of 17 and 19 Biddulph Road was refused at the Planning Committee meeting on the 4<sup>th</sup> June 2013 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. An application with respect to No.17 was approved by the Authority, subject to various conditions</p> <p>An enforcement notice, dated 6<sup>th</sup> September 2013, was the subject of an appeal which stopped the Notice coming into effect. On 23<sup>rd</sup> May 2014 notification was received that the appeal had been withdrawn and as such the notice took effect on that day. The three month compliance period expired on 23<sup>rd</sup> August. A site visit has not yet been undertaken to establish whether the Notice has been complied with, although indications were received at the time the appeal was withdrawn that there had been substantial compliance with some of the steps referred to in the Notice.</p>	Visit site to ascertain whether 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 established that an unauthorised extension had 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.</p> <p>An appeal against the enforcement notice was lodged and heard at a hearing on 31<sup>st</sup> July 2014. The appeal decision was made on 19<sup>th</sup> August which was reported to the Planning Committee meeting of 7<sup>th</sup> October. The outcome of the appeal was that planning permission was granted for the extension subject to a condition requiring the removal of the building unless off-site vehicle storage and parking was secured. Details required by the condition have been submitted and approved.</p>	Check that the condition has been complied with.
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 were sent to Legal Services subsequently and they are preparing a notice in accordance with the resolution. In the interim planning permission (14/00369/FUL) has been granted for the relocation of the same building. A recent site visit has established that the unauthorised building remains in place and is being used.</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 2 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> <p>An application was received on 31<sup>st</sup> July 2014, although it was not complete and valid until 19<sup>th</sup> September. The application, reference 14/00610/FUL, was permitted, subject to conditions, at the Planning Committee meeting of 28<sup>th</sup> October 2014 and as such the unauthorised development has been regularised through the granting, retrospectively, of the required planning permission and the case can now be closed.</p>	CASE CLOSED

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

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