

Public Document Pack

Date of meeting Tuesday, 28th April, 2015
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Julia Cleary

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 12)
To consider the minutes of the previous meeting(s).
- 4 **Application for Major Development - Hamptons Metal Merchants and Land Adjoining Keele Road; Mr JM & NW Hampton; 14/00948/OUT** (Pages 13 - 24)
- 5 **Application for Minor Development - Multi Storey Car Park, The Midway; Newcastle under Lyme Borough Council; 15/0241/DEEM3** (Pages 25 - 28)
- 6 **Application for Minor Development - Former Fire Station Ashley; Robert Duncan Homes Ltd; 15/00017/FUL** (Pages 29 - 36)
- 7 **Application for Minor Development - Land and Buildings adjacent to Oakdene Farm, Great Oak Road, Bignall End; Mr D Woodfine; 15/00206/FUL** (Pages 37 - 46)
- 8 **Application for Financial Assistance (Historic Buildings Grant) - Mow Cop Community Hall and Blackbrook Milestone** (Pages 47 - 48)
- 9 **Appeal Decision - Land behind No.5 Pinewood Drive, Ashley Heath** (Pages 49 - 50)
- 10 **Appeal Decision - Lymes Farm House, Lymes Road, Butterton** (Pages 51 - 52)
- 11 **DISCLOSURE OF EXEMPT INFORMATION**
To resolve that the public be excluded from the meeting during consideration of the following item(s) because it is likely that there will be a disclosure of exempt information as defined in paragraphs 1,2 and 3 in Part 1 of Schedule 12A of the Local Government Act 1972.

12 Old Springs Farm; 12/00068/207C2

(Pages 53 - 56)

13 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, Mrs Hambleton, Mrs Heesom, Miss Mancey, Northcott, Proctor (Vice-Chair), Miss Reddish, Mrs Simpson, 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, 31st March, 2015 and Wednesday 1 April, 2015

The meeting took place over two evenings due to the large volume of business. Items involving public speakers and urgent items were dealt with on 31 March and are marked with an asterisk.

The Members listed were present at both meetings except for the two additional Members listed in the apologies for 1 April.

Present:- Councillor Sophia Baker – in the Chair

Councillors Becket, Mrs Braithwaite, Cooper, Mrs Hambleton, Mrs Heesom, Miss Mancey, Northcott, Proctor, Miss Reddish, Welsh and Williams

Apologies Apologies were received from:

31 March - Councillors Mrs Bates and Mrs Simpson

1 April – Councillors Mrs Bates, Miss Mancey, Mrs Simpson and Welsh

1. DECLARATIONS OF INTEREST

Councillors Becket, Proctor and Welsh declared an interest in Item 16 - Madeley War Memorial.

Councillor Mrs Hambleton declared an interest in Item 7 – Kestrel Drive, Loggerheads and left the room during the debate.

2. MINUTES OF PREVIOUS MEETING(S)

Resolved: That the minutes of the meeting held on 3 March, 2015 be agreed as a correct record.

3. *APPLICATION FOR MAJOR DEVELOPMENT - LAND TO THE REAR OF FORMER RANGLES GARAGE, HIGHERLAND; TARPEY WOODFINE ARCHITECTS; 15/00077/OUT

Councillor Nigel Jones spoke on this application.

Resolved: (i) That, subject to the applicant first entering into a planning obligation by 7 May 2015 securing an public open space contribution of £2404 per dwelling for expenditure on Queen Elizabeth Park only, and subject to the receipt of legal advice confirming that it would not be unlawful having regard to Regulation 123 of the Community Infrastructure Regulations 2010, as amended, to issue such a decision after the 5 April, the application be approved subject to the undermentioned conditions:

1. Plans / time limit

2. Approval of reserved matters
3. Reserved matters to accord with Design and Access Statement
4. Accommodation to be one or two bedroomed flats
5. Levels and height of development
6. Highways matters
7. Contaminated land remediation
8. Construction hours
9. Construction management details- including mud and dust mitigation
10. Internal and external noise levels for the new dwellings
11. Waste storage and collection
12. Tree protection measures
13. Surface water and foul sewage drainage.

- (ii) That, should the obligation not be secured within the above period, the Head of Planning be authorised to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on open space provision; unless he considers it appropriate to extend the period for completion of the obligation.
- (iii) Only in the event of legal advice being received which indicates that the issuing of a permission after 5 April would be unlawful, the application be brought back to the next available committee for reconsideration.

4. *APPLICATION FOR OTHER DEVELOPMENT - 10 SIDMOUTH AVENUE; THE BIRCHES (STAFFS) LTD; 15/00047/COU

Councillor Simon Tagg spoke on this application.

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

- (i) By virtue of the intensity of the proposed use, specifically the numbers of occupants and their associated movements, it would be detrimental to the character of the Brampton Conservation Area.
- (ii) The applicant has not demonstrated in the submitted plans or accompanying documents and management details that this change of use application will not conflict with nearby uses or damage local amenity and accordingly will not conflict with Policy H6 of the Newcastle Local Plan.
- (iii) The proposal conflicts with paragraph 69 of the NPPF which states that planning decisions should aim to achieve places which promote safe and accessible environments where crime and disorder

and the fear of crime do not undermine quality of life.

5. *APPLICATION FOR MINOR DEVELOPMENT - REDGATES, HADDON LANE, CHAPEL CHORLTON; MR SNAITH; 15/00039/OUT

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

1. Plans / time limit
2. Approval of reserved matters
3. Full and precise details of the finished floor levels
4. Details of vehicle and pedestrian visibility splays, and location and opening of any access gates to be provided in any reserved matters application
5. Sample facing and roofing materials, sample hardstanding materials, and boundary treatments
6. Submission of tree protection plan, Arboricultural Impact Assessment and Arboricultural Method Statement, and
7. Waste recycling storage and collection arrangement
8. Removal of dwellinghouse permitted development rights.
9. Upon completion of the development, the use of Redgates shall be limited to the provision of accommodation for the applicant's mother for the duration of her life.

6. *APPLICATION FOR MINOR DEVELOPMENT - LAND BETWEEN 36 AND 38 KESTREL DRIVE, LOGGERHEADS; ASPIRE HOUSING / HEWITT & CARR ARCHITECTS; 14/00905/OUT

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

1. Standard time limit;
2. Approved plans;
3. Approval of reserved matters;
4. Prior approval of external facing materials;
5. Replacement tree planting;
6. Tree protection measures and arboricultural method statement ;
7. Highway matters.

7. APPLICATION FOR MINOR DEVELOPMENT - LAND ADJACENT TO 2 MOSS COTTAGES, GLOUCESTER ROAD, KIDSGROVE; MR WOODCOCK; 15/00107/FUL

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

- (i) Commencement of the development
- (ii) Plans referred to in consent
- (iii) Materials to be utilised (hard landscaping, facing and roofing materials)

- (iv) External lighting.
- (v) Means of storing and disposing of stable wastes
- (vi) Surfacing of the access
- (vii) Parking and turning areas
- (viii) Non commercial use only
- (ix) No storage, as opposed to parking when visiting, of horse boxes and similar
- (x) No jumps and similar features without prior approval.

8. APPLICATION FOR MINOR DEVELOPMENT - 1 THE WOODLANDS, LIVERPOOL ROAD EAST, KIDSGROVE; MRS JOYCE ALDERTON SCOTT; 15/00016/FUL

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

- (i) Plans referred to in consent
- (ii) External lighting
- (iii) Means of storing and disposing of stable wastes
- (iv) Non commercial use only
- (v) No storage, as opposed to parking when visiting, of horse boxes and similar
- (vi) No jumps and similar features without prior approval.
- (vii) Approval of a landscaping scheme to include native planting.

9. *APPLICATION FOR OTHER DEVELOPMENT - 1 LANSDELL AVENUE, WOLSTANTON; MR PETER PALMER; 14/00941/FUL

Councillor Trevor Hambleton spoke on this application.

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

- (i) As a result of the development the car parking provision on site would be significantly less than the maximum standards for a five bedroom dwelling therefore the development could create a local on street parking or traffic problem to the detriment of highway safety and contrary to Policy T16 of the Newcastle under Lyme Local Plan.
- (ii) The extension would be an overdevelopment of the building, of poor design and not in keeping with the surrounding area.

10. APPLICATION FOR OTHER DEVELOPMENT - BARN AT HOLLY LANE, HARRISEAHEAD; MR RILEY; 15/00098/COU

Resolved:

- (i) That with respect to the application made for Class MB (a) development prior approval (of the Authority) with respect to the change of use is **not required** as to the transport and highway impacts; the noise impacts; the flooding risks or as to whether the location or siting of the building make it otherwise impractical or undesirable for the building to change to a dwelling
- (ii) Prior approval (of the Authority) is **required** as to the contamination risks on the site and it is **granted**, without condition
- (iii) That with respect to the application made for Class MB(b) development prior approval (of the Authority) is **required** as to the design or external appearance of the building and is **granted subject to a condition** requiring, the design of the building to incorporate the corbelling feature that is on the existing building

11. *APPLICATION FOR OTHER DEVELOPMENT - 27 HARDINGSWOOD ROAD, KIDSGROVE; MRS STANWORTH; 14/00971/FUL

Councillor John Taylor spoke on this application.

Resolved: That the application be refused for the following reason:

The demolition of the building would be detrimental to the overall character and appearance of the Trent and Mersey Canal Conservation, would not result in any public benefit and it has not been demonstrated that the building is incapable of beneficial use and as such it is contrary to policy.

12. *APPLICATION FOR OTHER DEVELOPMENT - OPPOSITE SPAR SHOP, CLAYTON ROAD; H3G UK LTD / GVA; 15/00191/TDET

Resolved:

- (i) That prior approval is required.
- (ii) That the application be permitted.

13. APPEAL DECISION - WATERMILLS ROAD; (13/00974/OUT)

Resolved: That the decision and officer comments be noted.

14. APPEAL DECISION - LAND AT FARCROFT, MANOR ROAD, BALDWINS GATE; 14/00037/OUT

Resolved: That the decision and officer comments be noted.

15. APPLICATION FOR FINANCIAL ASSISTANCE; ST JAMES' AUDLEY AND MADELEY WAR MEMORIAL

Resolved:

- (i) That a grant of £5000 for the repair of the south aisle roof of St James' Church, Audley be approved subject to the appropriate standard conditions.

- (ii) That a grant of £180 for the repair of Madeley War Memorial and reinstatement of the bayonet on that memorial be approved subject to the appropriate standard conditions.

16. QUARTER 3 REPORT ON DECISION TO EXTEND PERIOD OF TIME WITHIN WHICH S106 OBLIGATIONS CAN BE SECURED

- Resolved:**
- (i) That the report be noted.
 - (ii) That the Head of Planning continue to report on a quarterly basis on the exercise of his authority to extend the period of time for an applicant to enter into the Section 106 obligations.

17. CHANGES TO THE THRESHOLD FOR DEVELOPER CONTRIBUTIONS

Consideration was given to a report advising Members on the changes to the thresholds for Section 106 Obligations.

- Resolved:** That the changes be noted and be applied by the Committee when making decisions on planning applications.

18. *CONSULTATION BY CHESHIRE EAST COUNCIL ON PROPOSALS FOR RESIDENTIAL DEVELOPMENT ON THE FORMER GORSTY HILL GOLF CLUB, WESTON

- Resolved:** That Cheshire East and Staffordshire County Council be advised that whilst the Borough Council does not object to the application, it asks that:
- (i) Consideration be given to both the required improvement of the Newcastle Road / Four Lane Ends junction of the A531 with the B5500, and to the potential impact of the development on the wider highway network within the Borough (and that Staffordshire County Council be asked to take this wider impact into account when it responds to Cheshire East).
 - (ii) That in the event of planning permission being granted, use of the A531 to the south of the access point into the development, by construction-related traffic be prevented by use of either an appropriated condition or planning obligation, in order to protect both highway safety and residential amenity within the villages through which such traffic would otherwise pass.
 - (iii) That the prediction in the Transport Assessment that there would be , consequent upon the development, a drop (relative to existing) in a.m. peak trip rates

exiting from the site in a southerly direction into Staffordshire, needs justification, as do all other figures of predicted flows to or from the south.

- (iv) That in view of this and other permitted and planned developments in South Crewe all having an adverse effect on traffic levels within the adjoining part of Staffordshire, the Council asks Cheshire East and Staffordshire to prepare a joint traffic plan for the area.
- (v) That the two authorities (Cheshire East and Staffordshire County Council) be asked to work with government to remove any legal blocks on the construction of an appropriate junction at Junction 16 that would provide a more attractive route towards the North Staffordshire conurbation, than use of the B5500 and the A531.

19. REVIEW OF PUBLIC SPEAKING PROTOCOL, SITE VISIT PROTOCOL AND WITHDRAWAL OF CALL-IN PROCEDURES

Consideration was given to a report regarding procedures for public speaking, site visits and call-in withdrawal, following the Action Plan arising from the Planning Peer Review. The following observations / comments were made:

Public speaking, or Direct Representation to Planning Committee, arrangements

- a) **Should all live applications that come before the Planning Committee be subject to the right to request to speak ?** – The existing policy was confirmed by the Committee as appropriate– if following an initial determination of an application (by the Committee) it comes back to the Committee, there is no opportunity provided to objectors or supporters to address the Planning Committee
- b) **Should public speaking be invited when subsequent to a grant of permission, an informal request say to reconsider Section 106 requirements is considered by the Committee ?**– The existing policy of not providing such an opportunity was confirmed by Committee
- c) **Should Parish and Town Councils be able to address the Planning Committee in their own right** – The existing policy of not providing such an opportunity was confirmed by the Committee

- d) **Should County Councillors have the right to address the Planning Committee** – the Committee considered that the policy did not provide this right, and agreed that for the avoidance of any doubt the policy should be clarified to make the position even clearer, by referring to “Borough Councillors for the ward where the application has been made”
- e) **Should public speaking be allowed when the Borough Council is only a consultee?** – The Committee confirmed that no public speaking should be permitted in such circumstances, and that revised policy should expressly state this
- f) **Does it matter if two speakers “share” a speaking slot ?** – The committee considered that it does not matter
- g) **If the number of speakers increases, beyond 3, should there be a related reduction in the length of time each is permitted to speak ?**
- The Committee did not agree to such a proposal
- h) **The current arrangement does not permit Members of the Committee to ask questions of any of the speakers. Is there a wish to change this?** – The Committee did not agree to such a change

Site visit procedures and voting on applications which have been the subject of a site visit protocol

- a) The Committee agreed to the proposal that the site visit protocol be amended to indicate that Parish Councils are to be invited to send an observer to any site visit called in their area
- b) The Committee agreed to the proposal that site visit protocol be amended to indicate that local members who are not on the Planning Committee should be informed of site visits in their area and invited to attend as observers
- c) The Committee agreed (upon a vote (6 for / 4 against) that when an application subject to a site visit is brought to the Planning Committee for determination Members who did not attend the site visit shall neither be eligible to take part in the debate concerning the item’s determination nor shall they be eligible to vote upon that determination
- d) The Committee did not agree that only those members who stay for the full duration of a site visit are eligible to take part in the debate concerning the item’s determination and to vote upon the application, although they recognised the principle that all members making a decision should have

the same information as would be obtained during the duration of a site visit.

Withdrawal from the planning committee of “called in” applications

- a) The Committee agreed that the policy be amended to allow for officers to send by email the officer recommendation and the invitation to withdraw the call in

Resolved:

- (i) That officers draw up in consultation with the Chairman, revised procedures taking into account the various changes recommended above and that when an application subject to a site visit is brought to the Planning Committee for determination Members who did not attend the site visit shall neither be eligible to take part in the debate concerning the item's determination nor shall they be eligible to vote upon that determination
- (ii) That officers submit a report in a year's time to the Planning Committee reviewing the implementation of the changes agreed at this meeting

20. URGENT BUSINESS

There was no Urgent Business.

COUNCILLOR SOPHIA BAKER
Chair

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HAMPTONS METAL MERCHANTS AND LAND ADJOINING KEELE ROAD, NEWCASTLE
MR JM & NW HAMPTON

14/00948/OUT

The Application is for outline planning permission for residential development up to a maximum of 138 dwellings. Details of the point of access onto the site have been submitted for approval, with all other matters of detail (appearance, landscaping, layout and scale) reserved for subsequent approval. An indicative layout plan has been submitted for information.

The proposed access utilises the existing access to Hamptons Metal Merchants off the access road serving the adjoining existing residential development, known as Milliner's Green, off Keele Road.

The site measures 4.99 hectares and is located to the south-east of Walley's Quarry landfill site. The site is within the Newcastle Neighbourhood as designated on the Local Development Framework Proposals Map and is within the urban area. Trees within the site are protected by Tree Preservation Orders Nos. 2 and 85.

The 13-week period for the determination of this application expired on 17th March 2015, but the applicant has since agreed to extend the statutory period to 30th April, and would be willing to extend it to at least the 26th May meeting

RECOMMENDATION

Subject to the Environmental Health Division confirming that noise and contamination/landfill gas issues can be addressed through the imposition of appropriate conditions REFUSE for the following reasons:-

- 1. Odour arising from the adjoining landfill site is highly likely to adversely affect the living conditions of the occupiers of the proposed development and it is not considered that this can be addressed through appropriate mitigation.**
- 2. In the absence of any odour mitigation measures that would suitably address the concerns expressed at 1, the applicant has failed to demonstrate that the development would not unduly restrict or constrain the activities permitted to be carried out at the adjoining waste management facility and the implementation of the Waste Strategy, contrary to policy.**
- 3. In the absence of an assessment of any risks to the development proposal by past coal mining activity, based on up-to-date coal mining information, the applicant has failed to demonstrate that the site is safe and stable to accommodate the proposed development, contrary to the NPPF.**
- 4. In the absence of a secured planning obligation and having regard to the likely additional pupils arising from a development of this scale and the capacity of existing educational provision in the area, the development fails to make an appropriate contribution towards primary school provision.**
- 5. In the absence of a secured planning obligation the development fails to make an appropriate contribution towards the provision of affordable housing which is required to provide a balanced and well functioning housing market.**
- 6. In the absence of a secured planning obligation the future maintenance and public access to the required public open space to meet the needs of the development has not been secured.**

Reason for Recommendation

It is considered that odours arising from the adjoining landfill site will have an unacceptable impact on the living conditions of the occupiers of the proposed development as odours could not be addressed through appropriate mitigation measures. As such it could unduly restrict or constrain the activities permitted or allocated to be carried out at any waste management facility and the implementation of the Waste Strategy, contrary to local and national policy.

In addition the applicant has failed to demonstrate that the site is safe and stable to accommodate the proposed development bearing in mind the coal mining legacy of the area.

Whilst the Environmental Health Division have raised objections it is anticipated that, following submission of additional information, noise, contamination and landfill gas issues can be suitably addressed through mitigation measures that could be the subject of conditions of a planning permission.

The development would result in additional pressure on limited primary school places of the schools whose catchment area it is located, and would place additional demands on off-site public open space unless the future maintenance and access to the open space on site is guaranteed. Both could be secured by means of planning obligations.

A planning obligation is also required to secure affordable housing within this development in accordance with policy. No obligations, in the form of a unilateral undertaking are "on the table" at the time of writing and indeed the applicant has submitted a viability assessment that indicates that the development would not be viable with such contributions.

Overall it is considered that the adverse impacts arising from granting planning permission (i.e. the odours arising from the adjoining landfill site having an unacceptable impact on the occupiers of this development and the introduction of residents unduly restricting or constraining the permitted operation of the landfill site) would outweigh the benefits of the provision of housing land; the benefits to the local economy; the relocation of the existing scrap yard within the site; and the social benefits of providing family and affordable houses (even assuming that the full 25% provision is made which may not be the case) and as such there is no presumption in favour of this development.

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

The Local Planning Authority worked in a positive and proactive manner in dealing with this application and in considering the application, advising of issues of concern and the need to provide additional supporting information, within a reasonable period, however it is considered that the applicant has been unable to overcome the principal concerns arising from the proposal.

KEY ISSUES

As indicated above the application is for outline planning permission for up to 138 dwellings. The details of the vehicular access into the site, which is the existing scrapyard access, are submitted for approval at this stage, but all other matters of detail are to be considered at a later date. An indicative layout plan has, however, been submitted in support of the application. This plan shows a circular internal access with a number of cul-de-sacs off that road. A central green/play area is shown and a landscaped buffer is shown on the boundary of the site to the adjoining landfill site.

In recognition of the absence of objections of the Environment Agency on flood risk and the conclusions of the submitted Ecological Scoping Report that the site has low ecological value and that there is no evidence of the presence of protected species, it is considered that the main issues for the Local Planning Authority to address are as follows:-

- Principle of development
- Visual Impact
- Residential amenity (air quality, odour, noise, pests)
- Impact of the development on the adjoining landfill site.
- Highway safety
- Contamination and landfill gas
- Coal mining legacy issues
- Planning obligations necessary to make the development policy compliant
- An assessment overall of whether or not any adverse impacts of the development significantly and demonstrably outweigh its benefits, when assessed against the policies in the NPPF taken as a whole.

Principle of residential development on this site

The application lies within the urban area and as such policies within the adopted Development support the principle of residential development on the brownfield (currently developed) element of the site. The site, however, is partially a greenfield site and as such the proposal does not fully comply with the Development Plan which seek to target residential development towards brownfield land.

The Local Planning Authority is, however, currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). It is therefore accepted that paragraph 49 of the NPPF applies to this application as follows:

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

The application has therefore to be assessed against the NPPF including paragraph 14 which states:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking.*

...For decision-taking this means (unless material considerations indicate otherwise):

- *...where...relevant policies are out-of-date, granting permission unless:*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.”*

Consideration will be given to whether there are any adverse impacts arising from granting planning permission that would outweigh the benefits of the provision of housing land under the headings below and a conclusion reached at the end of the report regarding the acceptability of the proposed development in principle.

Visual Impact

The site is prominent in views when approaching the site from the Keele direction along the A525, along Cemetery Road and Gallowstree Lane. The existing open field would be lost to development however it is considered that the visual impact arising would not justify refusal and could in part be mitigated by appropriate landscaping adjacent to the site boundary.

The redevelopment of the scrapyard, an integral part of the proposal, will be visually beneficial to the area. Whilst it is noted that the land levels will be increased as part of the mitigation measures relating to contamination it is not considered that this will result in a visually unacceptable residential development.

The design and layout of the development will need to be considered carefully at reserved matters stage but there is no basis upon which to conclude that the site could not accommodate residential development which would be acceptable in visual terms.

Residential Amenity (air quality, odour, noise, pests)The application is supported by a number of Assessments relating to residential amenity particularly arising from the site's proximity to the adjacent landfill site.

It is known that the landfill site has planning permission until 2042 and that the levels of the fill, as permitted, will exceed the existing land level prior to the final restoration of the site thereby giving rise to amenity issues for a considerable period of time. It is therefore necessary to consider the impact of the landfill site on residential amenity as it is at present and as it will change as ground levels within the landfill site increase as waste is deposited.

The Air Quality Assessment submitted has concluded that there will be no air quality concerns arising as a consequence of the development. It does acknowledge, however, that when the filling of the adjoining waste site takes place at ground level the impacts are predicted to be potentially significant. It goes on to conclude that the existing tree belt and proposed planted bund indicated on the illustrative layout will partially mitigate the impact of the landfill on the living conditions of the occupants of the development. It highlights that the development does not represent sensitive development any closer than existing development where similar impacts are predicted. In addition there will be ongoing mitigation measures to address odour at the landfill site.

The application submission acknowledges that mitigation measures proposed, the landscaped bund, will not fully address the impact of the landfill in later stages of its life. In addition it is not considered that identifying that there are already residential properties (which are the adjoining residential development to the north west of the site referred to in the planning history section below) that will similarly be affected by the landfill site as those proposed, justifies the introduction of up to a further 138 households adversely affected. Whilst it is acknowledged that the operators of the landfill site have been, and will continue, to address the odours arising from the development as far as they can, that the EA indicate that it is highly likely that the residents will be affected by odour nuisance should be noted.

The Environmental Health Division has sought the comments of a consultant on the issue of odour. The advice received is that, drawing on the evidence provided by the applicant in the submitted documentation, there is sufficient concern to object to the proposal. There is a likelihood that on occasion odour will be a problem, as acknowledged by the applicant, and due to flaws in the submission the impact may be greater than predicted but even at the levels the applicant predicts the occupiers of the development would be unacceptably affected by odours. The introduction of residents close to the landfill site will compromise the operator's ability to comply with the permit that they operate under. This is contrary to the policies and guidance listed below. The advice received is that there are no appropriate conditions that could be applied to the application site which would address such concerns. For those reasons, the consultant recommends that the application should be refused

The Noise Assessment submitted with the application concludes that the development will be affected by traffic noise but that this could be addressed through mitigation. In addition noise modelling has been undertaken to assess the impact of noise arising from the operation of the adjoining waste site. The Environmental Health Division does not consider that the impact of noise has been appropriately assessed and that a further assessment should be carried out and that it is demonstrated, before a decision is made, that noise modelling is representative of the activities taking place now and in the future and that the operation of the landfill site will not be unacceptably constrained throughout its lifetime by the residential development proposed. Whilst it is anticipated that the noise impact can be addressed satisfactorily, it is not possible to identify appropriate mitigation without the further assessment, although it is anticipated that this will be submitted before the Committee meeting.

The submitted pest assessment concludes that it is highly unlikely that pest problems will arise as a result of developing the proposed site. In addition it states that the small number of pests in the area, such as gulls and other birds, flies and rodents found in the vicinity of the site are unlikely to amount to nuisance and cause loss of amenity such as it will give rise to complaints. The Environmental Health Division has questioned whether the report properly addresses fly infestation but has not raised any objections to the proposal on this ground.

Impact of the development on the adjoining landfill waste site

Policy 2.5 of the recently adopted Waste Local Plan states that the Waste Planning Authority (the County Council) will not support proposals that would unduly restrict or constrain the activities permitted or allocated to be carried out at any waste management facility, or restrict the future expansion and environmental improvement of existing operational waste management facilities.

Paragraph 120 of the NPPF states that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. Paragraph 8 of the National Planning Policy for Waste states that local planning authorities should ensure that the likely impact of proposed, non-waste related development on existing waste

management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities.

The proximity of the proposed development, for the reasons outlined above, raises issues of residential amenity and unless the Authority is satisfied that the development can be made acceptable through amendment or mitigation, which is not the case, it must be concluded that the proposal will prejudice the implementation of the Waste Strategy contrary to local and national policy. The County Council's comments can be interpreted as an objection on these grounds given the conclusion that has been reached.

Whilst the proposal will also result in the removal of an existing waste site, the scrap yard, as indicated in the relevant planning history section below, permission has been given for this facility to relocate to Chesterton.

Highway safety

The development is accessed from the existing residential development which gains access onto the wider highway network via a traffic light controlled junction. The submitted Transport Assessment indicates that the junction has sufficient capacity to accommodate the additional traffic from the development and that the scheme will have little or no impact on the local network. The Highway Authority has raised no objections to the application.

Notwithstanding the representation received that parking should be approved at this stage it is considered that the site could accommodate adequate parking to meet its needs and therefore details of layout, including parking, could not be required at this stage.

Coal mining legacy

The Coal Authority advise that the site falls within the defined Development High Risk Area, and that their records indicated within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically the presence of a recorded mine entry and recorded geological faults/fissures across part of the site.

In light of this and in accordance with the NPPF it is for the applicant to demonstrate to the satisfaction of the LPS that the application site is safe, stable and suitable for development. The application fails to this .

Contamination and Landfill Gas

The Environmental Health Division and the Environment Agency have expressed concerns regarding contamination and landfill gas. The Environmental Health Division have indicated that the submitted site investigation works are insufficient to adequately identify the potential risks posed by the scrap yard and the adjoining landfill site to the future residents of the site. They say it is necessary to demonstrate through appropriate modelling, given the landfill site is only at 35% of its capacity, potential risks from migration of landfill gas and without such information it is not possible to consider what remediation is necessary. Following a meeting with the applicant's advisors, however, it is now anticipated that the Environmental Health Division will be in a position to recommend conditions that would appropriately mitigate any adverse impacts in response to further information that is to be submitted.

Planning obligations to make the development policy-compliant

The development would result in additional pressure on limited primary school places of the school within whose catchment area it is located and in the absence of a financial contribution, that can only be secured by a planning obligation, such adverse impacts would not appear to be appropriately mitigated against. A planning obligation is also required to secure affordable housing within this development and to secure the future maintenance and management of the areas of landscaping and

open space within the site. It is considered that the contributions that are sought comply with the tests in the CIL Regulations and as such would be lawful.

The applicant has very belatedly submitted a viability assessment that indicates that the development would not be viable with such contributions. Given the lateness of the submission of the information relating to viability it has not been possible to obtain an independent assessment and as such it is not possible, at this time, to advise whether the applicant's conclusion are correct. If the Committee was minded not to refuse the principle of residential development on this site, then the appropriate step would be to obtain an independent assessment of the scheme's ability in financial terms to make such contributions (which would take some weeks), and for the matter to come back to the Committee to be considered in the light of that independent assessment.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

Odours arising from the adjoining landfill site have been identified as being likely to have an unacceptable impact on the occupiers of this development. It is acknowledged that the operators of the landfill site are addressing odours, and will continue to do so as part of their permit, this will not eliminate odours at all times over the considerable operational lifetime of the landfill site. In addition the introduction of residential properties that will be affected by odours from the landfill site could unduly restrict or constrain the permitted operation of the landfill site. In addition the applicant has so far failed to demonstrate that the site can be safely developed taking into consideration the coal mining legacy that affects the site. These are matters of considerable weight when taken together and outweigh the benefits of the provision of housing land; the benefits to the local economy; the relocation of the existing scrap yard from the site; and the social benefits of providing family and affordable houses (even assuming that the full 25% provision is made) when assessed against the policies in the NPPF taken as a whole.

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1: Residential development: sustainable location and protection of the countryside
Policy T16: Development – General Parking Requirements
Policy C4: Open space in new housing areas.
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character – General Considerations
Policy IM1: Provision of Essential supporting Infrastructure

Staffordshire and Stoke-on-Trent Joint Waste Local Plan 2010-2026 (JWLP)

Policy 2.5 – The location of development in the vicinity of waste management facilities.

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

Policy 6 – Mineral Safeguard Areas

Other material considerations include:

Staffordshire Minerals Local Plan 2015-2030 (draft for consultation)

Policy 3 – Safeguarding Minerals of Local and National Importance and Important Infrastructure
National Planning Policy and guidance

National Planning Policy Framework (March 2012)
Planning Practice Guidance (March 2014)
National Planning Policy for Waste (October 2014)
DEFRA Odour Guidance for Local Authorities (2010)

Supplementary Planning Documents/Guidance

Developer Contributions SPD
Affordable Housing SPD
Space around dwellings SPG
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD

North Staffordshire Green Space Strategy (adopted 2009)

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

Relevant Planning History of the adjoining now developed site to the north-east

99/00341/OUT Outline planning permission granted for residential development – 6 November 2000

02/01107/REM Details of the means of access to the housing development and scrapyard – refused but subsequently allowed on appeal in May 2003

03/00790/REM Details of 280 houses and apartments – appeal lodged against failure of the Local Planning Authority to determine the application within the appropriate period. Council resolution 21 September 2004 that had the appeal not been lodged it would have granted the application subject to various conditions. Appeal allowed 27 July 2005 and costs awarded against the Authority.

Relevant Planning History of the application site

The County Council granted planning permission to relocate the scrap yard on part of the application site to Holditch House, Holditch Road in 2013 (County Council's reference N12/03/2018 W).

Views of Consultees

The **Environmental Health Division** objects to the application on noise and contamination grounds, however it considers that the objection can be overcome by the applicant undertaking the following:

- A revised contamination study
- An assessment of potential noise impacts from the adjacent landfilling activities, carried out in accordance with BS4142:2014
- Revised noise modelling using the proposed site layout and the plant items which are likely to be used at the landfill which takes account of the comments detailed herein.

However in light of the advice from Ricardo-AEA (consultants) concerning the odour impact of the landfill on the development and the impact on the remaining landfilling created by introducing new sensitive receptors, the Division recommends refusal of this application on odour grounds.

The **Highway Authority** have no objections subject to conditions including prior approval of full details of the access, submission of a Travel Plan and approval of a Construction Management Plan.

The **Landscape Development Section** comment that the site is protected by Tree Preservation Orders Nos. 2 and 85 and that they have no objections in principle subject to the retention of the existing mature trees around the perimeter and the inclusion of new planting where appropriate is

supported. More of the properties could face onto the central play area. The buffer planting and road way separation to the A525 shown on the indicative layout is supported.

A Section 106 obligation is requested to secure the long term maintenance and public access to the open spaces on the site.

The **County Education Authority** indicates that the development falls within the catchments of Friarswood Primary School/Hassell Community Primary School/St Giles and St George's CofE Academy and NCHS - The Science College. A development of this size could add 29 Primary School aged pupils, 21 High School aged pupils and 4 Sixth Form aged pupils. The Primary Schools are projected to be full for the foreseeable future (the other schools have capacity) as such they request a contribution towards Primary School provision only which amounts to £319,899 (29 x £11,031).

The **Environment Agency** objects to the proposed development because the proposed development is located within 50m of a currently non-hazardous landfill site which is known to be producing landfill gas. This represents an unacceptable risk to the proposed development and they therefore recommend that planning permission is refused on this basis in accordance with advice set out in the NPPF.

The EA make reference to flood risk and drainage, and groundwater and contamination and request that contaminated land conditions are imposed should the Council decide to grant planning permission.

The County Council as the **Minerals and Waste Planning Authority** raise no objections to the proposed development subject to the Council being satisfied, having obtained confirmation from its own Environmental Health Officer and Environment Agency that:

- There would be no unacceptable risks from pollution to any occupant of the proposed development as a result of the proximity to the neighbouring waste management facility; and
- The proposed development would not constrain the continued operation of the neighbouring waste management facility, or the timely restoration of the former quarry.

The **Coal Authority** raise fundamental concern as the site falls within the defined Development High Risk Area and objects as the required Coal Mining Risk Assessment Report or equivalent has not been submitted. As such the applicant has failed to demonstrate that the application site is safe and stable to accommodate the proposed development.

The views of Waste **Management, Housing Policy, Silverdale Parish Council**, and the **Newcastle South LAP** have been sought but they have not responded by the due date. As such it is assumed that they have no comments on the application.

The **Lead Local Flood Authority** has no objections subject to conditions to secure appropriate design to address surface water run-off.

Representations

Four letters of objection have been received, including a representation from the **Thistleberry Residents Association** and one on behalf of the operator of the adjoining landfill site, raising the following concerns:-

- The development of the site abutting the adjoining landfill site, thereby abandoning the established buffer-zone based approach which has been applied, would be unjustifiable in planning terms.
- The benefits of the development are limited and would not outweigh the harm arising from a development that is incompatible with the adjoining landfill site.
- The Transport Report incorrectly refers to the A575 and it is unclear how the journey details have been calculated.
- There is only one access to this and the existing Persimmon development.
- Flooding occurs on the A525 outside the Parkway and near to the entrance of the site.

- Parking should not be left until the reserved matters stage as it should be known what parking provision is being made to ensure that it is adequate given that parking on the adjacent housing development is problematic.
- The submitted information suggests that noise levels on application site would be unacceptably high and such noise levels may not take into the workings of the adjoining landfill site when it reaches ground level.
- There might be a limit to the height of bunds on safety grounds when the working level of the landfill site raises which will affect mitigation.
- The flood risk assessment recommends a swale pond leading to concern about deep water on site.
- Drainage into the existing stream course will increase flooding that occurs nearby.
- The application should not be determined until a detailed plan has been provided as to what is to happen to the trees on site. Vegetation and trees should not be removed to accommodate the development.
- The development of the scrap yard is supported but the loss of the amenity value of the green field would have a great adverse impact on the neighbourhood.
- The proposed 25m off set limit to the infill site is not adequate. Already there are problems on the Persimmon site which has a 100m off set.
- If the significant number of empty house are taken into account it may be found that Newcastle more than achieves a 5 year supply of housing land.
- There are many issues that have been highlighted within the submitted reports that demonstrate why the site shouldn't be developed.
- The development should be subject to Environmental Impact Assessment screening.
- The submission does not fully take into account the socio-economic impacts of the development notably impact on school provision.
- The Air Quality and Odour Assessment is not available. (This document is now available to view).
- Serious consideration should be given to the likelihood of complaints during the lifetime of the adjacent landfill site and whether it is appropriate to introduce further sensitive receptors when there are continuing odour complaints.
- The only location for the drainage attenuation pond is in a location within 2m of potentially contaminated made ground and as such is inappropriate.
- In recognition of the recommendations of the geo-environmental report that asbestos monitoring is undertaken around the perimeter of the site a planning condition should be imposed if minded to approve.
- The Design and Access Statement indicates that the dwellings will be constructed on existing ground levels which is contrary to the recommendations of the geo-environmental report which recommends cover of the former scrapyard area. Such alterations in ground levels could impact on the highways layout and Townscape and Visual Impact Assessment.
- Insufficient information has been provided to determine that the application can be built within the parameters applied for.
- The proposal does not include the required 25% affordable units.
- The suggested path to Keele Road would require the removal of a mature hawthorn hedgerow and would be better to the north where it would avoid the narrow path to the west of the existing scrapyard.
- The development and the adjoining Persimmon Estate should be designated with a 20mph limit.

A letter in support of the application, in part, has been received making the following comments:-

- The brownfield part of the site will be improved by the removal of the scrapyard and replacement by executive type houses in keeping with or better than the Hampton Court development.
- The greenfield element should remain as agricultural land as it, and the school playing fields, provide a green barrier between the Borough and University Science Park.
- The greenfield site was the scene of extensive ground-works by the National Coal Board some years ago to remedy subsidence problems.
- The site includes the former Field House farm and buildings and there should be a provision for an archaeological watching brief on this part of the site.

Applicant/agent's submission

The application is supported by the following;

- Planning, Design and Access Statement
- Ground Investigation Report
- Noise Impact Assessment
- Expert Report: Pest and Nuisance potential of proposed residential site.
- Arboricultural Report and Arboricultural Implications Report
- Transport Assessment
- Landscape and Visual Appraisal
- Flood Risk Assessment
- Statement of Community Involvement
- Viability Assessment

The application documents are available for inspection both at the Guildhall, and at www.newcastle-staffs.gov.uk/planning/1400948OUT

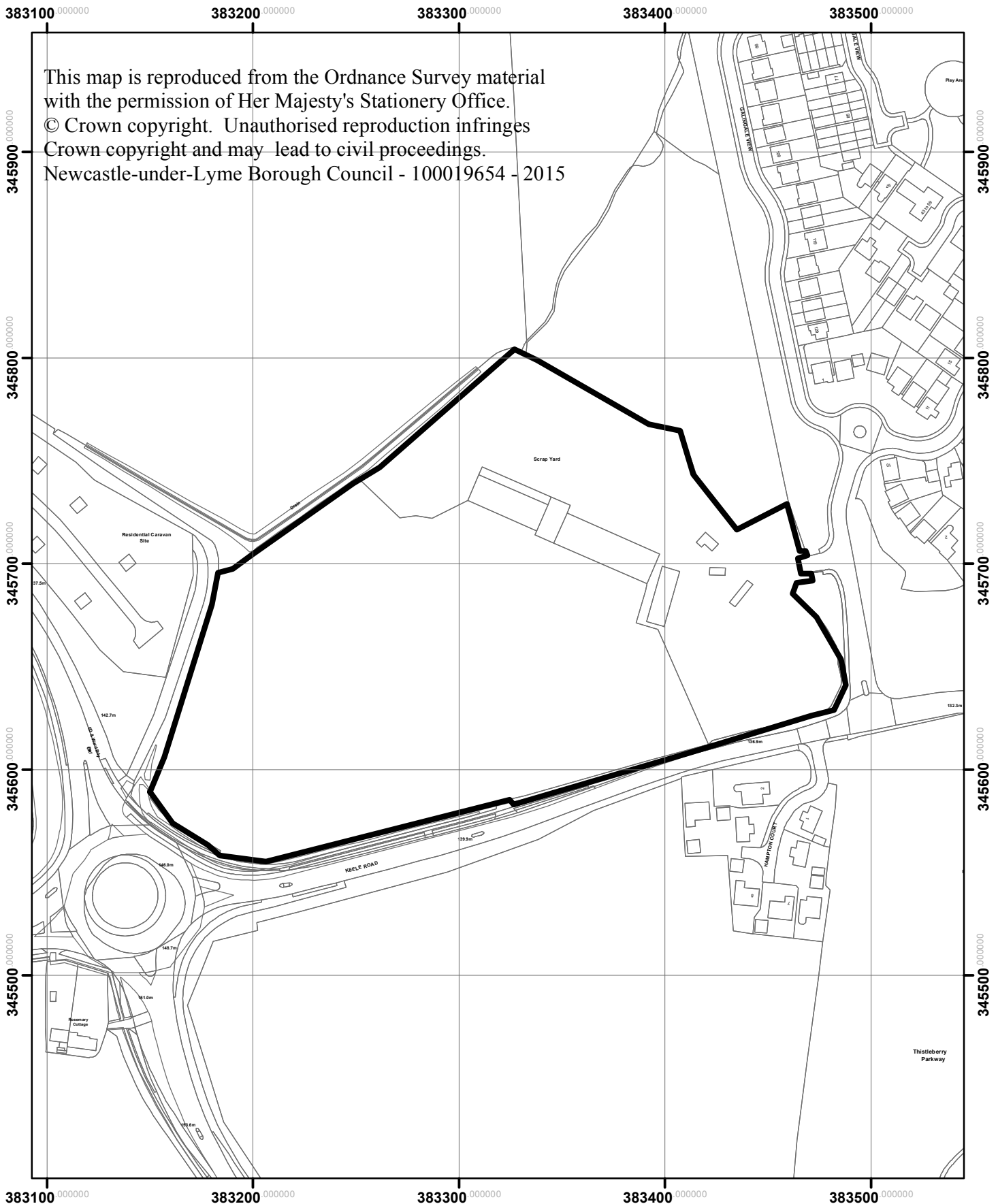
Background Papers

Planning Policy documents referred to
Planning files referred to

Date report prepared

10th April 2015

Hamptons Metal merchants and land adjoining, Keele Road 14/00948/OUT



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MULTI STOREY CAR PARK MIDWAY, NEWCASTLE
NEWCASTLE BOROUGH COUNCIL

15/00241/DEEM3

The application is for planning permission for the erection of security fencing to all levels of the Midway multi-storey car park.

The statutory 8 week determination period for the application expires on the 11 May 2015.

RECOMMENDATION

PERMIT subject to conditions relating to the following;

- 1. Commencement of development within 3 years**
- 2. Development in accordance with the submitted plans**
- 3. Materials and colour of the security fencing to be in accordance with the submitted details**

Reason for recommendation

The proposed security fencing would have an acceptable visual impact, and would not adversely affect the character of the Conservation Area.

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.

KEY ISSUES

The application seeks planning permission for the erection of security fencing to each level of the Midway car park in order to improve safety for its users. The application site is located within the Town Centre Conservation Area as defined within the proposals map.

There are no planning policy objections to the principle of providing the security fencing to the car park is considered to be acceptable, subject to a consideration of the visual impact of the proposed fencing upon the building and the character of the Conservation Area.

Visual Impact upon the Character of the Conservation 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.

Policies B9 and B10 within the Local Plan seek to ensure that development within Conservation Areas either preserves or enhances its character.

The proposed development seeks planning permission to provide security fencing to all levels of the Midway multi-storey car park. The proposed fencing would be erected between the existing barrier on the outer edge of the car park and the ceiling and would act to enclose each level of the Midway car park, therefore increasing the safety for its users.

The fencing itself would be a very dark moss green colour, whilst the posts that it would attach to would be coloured jet black on the first two levels. On top level of the car park the fencing would be coloured in grey as this will act to reduce the visual impact of the railings against the skyline.

A sample panel of the fencing has been placed to the third level of the car park which offers some insight into the visual impact of the proposal. The fencing can be viewed from Lower Street. The horizontal and vertical bars of the fencing are quite slim-line, however the fencing is sturdy and well attached to the building. The slim-line nature of the fencing reduces its visual impact when viewed from street on Lower Street and The Midway, and as such it is not considered that the development would visually harm the building itself.

The proposal would result in the fencing being attached to each level of the Midway car park, and would surround the building. Its visual impact is considered to be acceptable against the backdrop of the building and wider Conservation Area.

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
Policy ASP4: Newcastle Town Centre

Newcastle-under-Lyme Local Plan 2011 (NLP)

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

Other material considerations include:

Relevant National Policy Guidance:

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

Relevant Planning History

None relevant

Views of Consultees

The **Police Architectural Liaison Officer** fully supports the application.

The **Conservation Officer** does not consider that the development will cause any harm to the appearance of the Conservation Area.

The views of the **Conservation Advisory Working Party** and the **Staffordshire Fire and Rescue Service** will be reported.

The views of the **Environmental Health Division** have been sought, however as they have not been received by the due date it is assumed that they have no comments on the proposal.

Applicant/agent's submission

The application includes elevations plans submitted with the application form.

www.newcastle-staffs.gov.uk/planning/1500241DEEM3

Background Papers

Planning File
Development Plan

Date report prepared

10th March 2015

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**FORMER ASHLEY FIRE STATION, CHURCH ROAD, ASHLEY
ROBERT DUNCAN HOMES LTD**

15/00017/FUL

The Application is for full planning permission for the erection of 2 detached dwellings and garages.

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

The 8 week period for the determination of this application expired on 10th April 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following:

- **Commencement of development**
- **Plans referred to in consent**
- **Prior approval of materials, boundary treatments and surfacing materials**
- **Contaminated land**
- **Noise levels**
- **Provision of access, parking and turning before occupation and subsequent retention**
- **Closure of redundant accesses**
- **Retention of visibility splays free of obstruction.**
- **Retention of garages for parking of vehicles and cycles.**
- **Construction Method Statement**
- **Surface water drainage**

Reason for Recommendation

It is considered that the proposal would not represent sustainable development due to its location outside of a rural service centre away from services, facilities and sustainable transport modes. Whilst such a factor that weighs against the development it results in the modest contribution of 2 units of additional housing to the supply and would result in the redevelopment of what is currently a vacant and unsympathetic site within a primarily residential area. Both of these points are benefits which must be attributed weight. In the absence of any other matters that could not suitably be addressed through conditions, it is considered that the adverse impacts arising it is not considered that the adverse impacts of allowing the proposed development significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

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

No amendments were considered necessary during the course of the application.

Key Issues

This application is for full planning permission for the erection of 2 detached dwellings and garages. The application site lies within the open countryside and an Area of Active Landscape Conservation, 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 impact on the form and character of the area?
- Would there be any adverse impact on residential amenity?
- Is the proposal acceptable in terms of highway safety?
- Would there be any adverse impact on trees?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

Is the principle of residential development on the site acceptable?

The application site lies approximately 230m from the village envelope of Ashley (measured along the public highway) and is within the open countryside. The site comprises previously developed land.

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

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

Furthermore, Policy H1 of the Local Plan seeks to support housing within the urban area of Newcastle or Kidsgrove or one of the village envelopes.

Ashley is not identified in the CSS as one of the Rural Service Centres. It is identified as a village and the CSS indicates that no further growth is planned for the villages and efforts will be made to ensure existing services and activities within the villages are protected.

In terms of open market housing, the development plan indicates that unless there are overriding reasons, residential development in villages other than the Rural Service Centres is to be resisted according to CSS Policy ASP6. The adopted strategy is to allow only enough growth to support the provision of essential services in the Rural Service Centres.

As indicated above this site is not within one of the identified Rural Service Centres nor is it within a village envelope, and the proposed dwellings would not serve an identified local need and as such is not supported by policies of the Development Plan.

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

The NPPF advises in 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."*

As a consequence, policies such as NLP H1 with its reference to the village envelope and CSS ASP6 with its reference to Rural Service Centres all have to be considered to be out of date, at least until there is once again a five year housing supply.

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 that where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted 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 the Framework indicate development should be restricted.

The village of Ashley is lacking in services and facilities which are limited to public houses, a church and a doctor's surgery. The village of Loggerheads, which has a greater range of shops and services

and is therefore recognised as a Rural Service Centre, is approximately 2.3km away. The village is served by an hourly bus service to Newcastle, Hanley and Market Drayton, but given the distance to shops and services, including a primary school, post office/newsagents or general store, it is considered very likely that the occupiers of the dwellings would use a car for the vast majority of trips. The proposal is not considered to represent a sustainable form of development therefore.

It is still incumbent upon the Local Planning Authority to demonstrate that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This issue is addressed at the conclusion of this report, after an assessment of other issues.

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

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The site is currently occupied by the former Ashley Fire Station. It comprises a traditional fire station building located in the south-east part of the site and a brick built garage and a single storey office area to the south. There is a small brick storage building to the rear of the main fire station building and a four storey brick training tower to the north of the site.

The Urban Design Supplementary Planning Document, at R12, indicates that residential development should be designed to contribute towards improving the character and quality of the area. Where in or on the edge of existing settlements developments should respond to the established character where this exists already and has definite value. Where there is no established character the development should demonstrate that it is creating a new character that is appropriate to the area. At RE7 it indicates that new development in the rural areas should respond to the typical forms of buildings in the village or locality; RE6 states that elevations of new buildings must be well composed, well-proportioned and well detailed; and RE7 says new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The proposal is for two large detached dwellings, each with an integral double garage. The area is generally characterised by relatively large residential properties set within spacious plots and therefore at the scale proposed the dwellings would be in keeping with the character of the area. There are a variety of styles of dwellings in the area and it is considered that the design of the dwellings now proposed would be acceptable in this location.

The appearance of the site as existing is out of keeping with the largely residential character of the village. The fire station has relocated and therefore the site is unoccupied and unless redeveloped, it will remain unsightly. It is considered that the proposed development would result in an improvement to the character and appearance of the locality.

Would there be any adverse impact on residential amenity?

Supplementary Planning Guidance (SPG) Space about Dwellings provides advice on environmental considerations such as light, privacy and outlook.

With respect to the interrelationship of the proposed dwellings with the neighbouring properties, sufficient distances are proposed between existing and proposed dwellings in compliance with the Council's SAD SPG.

With regard the proposed dwellings, it is considered that an acceptable level of amenity would be achieved.

In conclusion, it is not considered that a refusal could be sustained on the grounds of impact on residential amenity.

Is the proposal acceptable in terms of highway safety?

The site is currently served by two accesses. A centrally located double width access is proposed to serve both dwellings and each property would have a turning area and sufficient parking spaces.

The Highway Authority has no objection to the proposals subject to a number of conditions.

Subject to conditions therefore, it is not considered that the proposal would raise any issues in terms of highway safety.

Would there be any adverse impact on trees?

There are a number of trees both within and on the boundaries of the site and the application is accompanied by an Arboricultural Report. The proposal would result in the loss of 8 roadside trees and although the trees are not of significant arboricultural merit, they make an attractive contribution to the streetscene. Subject to the imposition of conditions including the submission of a landscaping scheme to include replacement trees, the Landscape Development Section has no objections. It is not considered that a refusal could be sustained on the grounds of impact on the trees.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

For the reasons detailed above it is considered that the proposal would not represent sustainable development and this is a factor that weighs against the development. The proposal would however result in the modest contribution of 2 units of additional housing and would result in the redevelopment of what is currently a vacant and unsympathetic site within a primarily residential area. Both of these points are benefits which must be attributed weight.

In this particular case, it is not considered that the adverse impacts of allowing the proposed development significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

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 ASP6:	Rural Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change
Policy CSP4:	Natural Assets
Policy CSP5:	Open Space/Sport/Recreation

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy N12:	Development and the Protection of Trees
Policy N13:	Felling and Pruning of Trees
Policy N17:	Landscape Character – General Consideration
Policy N19:	Area of Active Landscape Conservation

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

Planning Practice Guidance (PPG) (2014)

Supplementary Planning Guidance/Documents

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

Views of Consultees

The **Highway Authority** has no objections to the proposal subject to conditions relating to the provision of access, parking and turning areas, closure of the existing accesses, protection of visibility, retention of garages for parking, submission of Construction Method Statement and provision of surface water drainage interceptor.

The **Environmental Health Division** has no objections subject to conditions relating to dwelling noise levels and contaminated land.

The **Landscape Development Section** has no objections subject to conditions requiring a landscaping scheme and tree protection.

Loggerheads Parish Council has no objections to the application.

Representations

None

Applicant's/Agent's submission

The application is accompanied by a Sustainability Report, a Geo-Environmental Investigation Report and an Arboricultural Report. All of these documents are available for inspection at the Guildhall and on www.newcastle-staffs.gov.uk/planning/1500017FUL

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

8 April 2015

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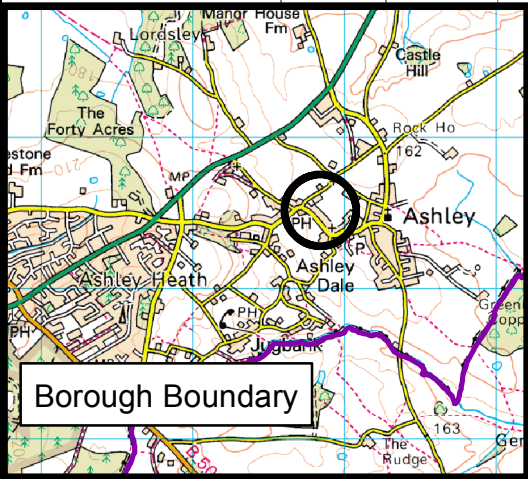
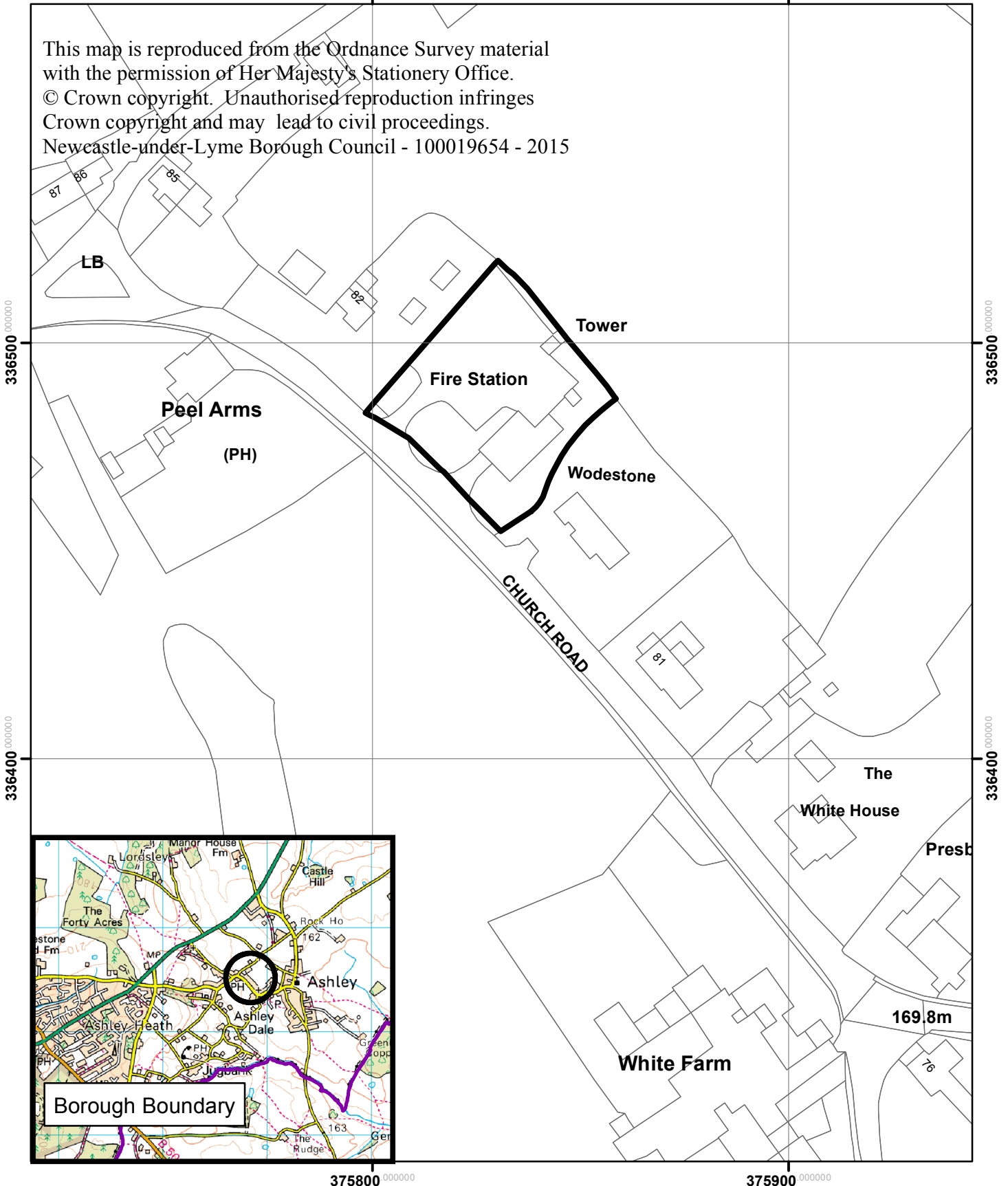
Former Fire Station, Ashley 15/00017/FUL



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Newcastle-under-Lyme Borough Council - 100019654 - 2015



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**LAND AND BUILDINGS ADJACENT TO OAKDENE FARM, GREAT OAK ROAD, BIGNALL END
MR D WOODFINE
15/00206/FUL**

The Application is for full planning permission for a 'Passivhaus' dwelling to replace an existing agricultural building.

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

The 8 week period for the determination of this application expires on 8th May 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following:

- **Commencement of development**
- **Plans referred to in consent**
- **Materials**
- **Contaminated land**
- **Tree protection**
- **Compliance with recommendations of Landscape Design Report**
- **Highway matters**

Reason for Recommendation

The proposed development, whilst comprising inappropriate development within the Green Belt, is considered acceptable as it would not harm the openness of the Green Belt, or the purposes of including land within it. Very special circumstances are considered to exist when taking the fall back position into consideration and the beneficial impact upon the character and appearance of the site that the development represents. Further, the proposal is considered to represent sustainable development and there would be no adverse impact on the character and appearance of the rural area or the Area of Landscape Enhancement.

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.

Key Issues

Full planning permission is sought for the erection of a 'Passivhaus' dwelling to replace an existing agricultural building. The site lies within the Green Belt and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map. It is not considered that the scheme raises any issues in terms of highway safety, impact on trees or ecology that would justify its refusal and therefore the key issues in the determination of the application are as follows:

- Is the proposal appropriate or inappropriate development in the Green Belt?
- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- If inappropriate, do the required very special circumstances exist to justify approval?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

Is the proposal appropriate or inappropriate development in the Green Belt?

Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 89 of the NPPF states that new buildings in the Green Belt should be regarded as inappropriate other than for a limited number of exceptions which include the replacement of a building provided the building is in the same use and is not materially larger than the one it replaces.

Consent has recently been granted for the conversion of an existing outbuilding at the site to a dwelling (Ref. 14/00802/COUNOT) and the house now proposed would replace that existing outbuilding. However, because the replacement building would not be in the same use as the existing building as the conversion has not taken place and the proposal does not fall within any of the other exceptions listed, it is considered to constitute inappropriate development.

Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The applicant considers that a combination of a number of factors amount to the very special circumstances required to justify this development. These will be considered later in the report.

Does the proposal comply with policies on the location of new housing?

CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

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

Furthermore, Policy H1 of the Local Plan seeks to support housing within the urban area of Newcastle or Kildgrove or one of the village envelopes.

This site, which does not comprise previously developed land, is not within a Rural Service Centre and it is not considered that the proposed dwelling would serve a wider local need nor would it support local services. As such, it is not supported by policies of the Development Plan.

Paragraph 55 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. LPAs should avoid new isolated homes in the countryside unless there are special circumstances such as where the development would reuse redundant or disused buildings and lead to an enhancement to the immediate setting.

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

The NPPF advises in 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.*"

As a consequence, policies such as NLP H1 with its reference to the village envelope and CSS ASP6 with its reference to Rural Service Centres all have to be considered to be out of date, at least until there is once again a five year housing supply.

Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development and that for decision-taking this means where the development plan is absent, silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the framework indicate development should be restricted. The examples given of specific policies in the footnote to paragraph 14 indicate that this is a reference to area specific designations such as Green Belts. This site is within the Green Belt.

The application site is approximately 800m from Bignall End where there are a number of services and facilities and a reasonable bus service. The village can be reached on foot in about 10 minutes and although there is no footpath along part of the route, the road has a low volume of traffic. There is also a public footpath which gives access to the local primary school within 600m. It is considered therefore that the occupiers of the proposed dwelling would have some option for alternative modes of transport to the car and therefore, the proposal is considered to represent sustainable development. In terms of sustainability therefore, it is considered that the site is in a relatively sustainable location. There is residential development close to the site and therefore it is not considered that the property is in an 'isolated' location.

The issue of whether this is an appropriate location for a new dwelling will be considered further at the end of the Key Issues section of this report.

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

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) has been adopted by the Borough Council and it is considered that it is consistent with the NPPF and therefore, can be given weight. Section 10.5 of the SPD states that new development in the rural area should respond to the typical forms of buildings in the village or locality.

The proposed dwelling would be two-storeys and the materials would comprise cedar boarding laid vertically for the walls with an aluminium or zinc roof with a low-reflective finish. The fenestration would comprise a mix of tall glazed openings and smaller windows and the large central atrium to the south-west elevation would have a double height window.

The applicant's agent states that the proposed dwelling would have mass and form which is agricultural in nature and which is appropriate to its rural context. It is stated that the building shape would be deliberately simple in order to reduce the external surface area/volume ratio, which would make the building inherently more energy efficient. The simple form facilitates the design of construction details which would ensure that low thermal bridging and a high level of air-tightness is achieved. Such details are another crucial part of achieving the Passivhaus standard.

The dwelling would have a contemporary appearance but it is considered that its simplicity and materials would be appropriate in this rural location.

The site falls within an Area of Landscape Enhancement as defined by the Local Development Framework Proposal Map and Local Plan Policy N20 indicates that the Council will support, subject to other plan policies, proposals that will enhance the character and quality of the landscape. Within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The development would not lead to the loss of any particular landscape features and would have minimal impact on the character of the Area of Landscape Enhancement.

If inappropriate, do the required very special circumstances exist to justify approval?

As indicated the proposed dwelling is considered to comprise inappropriate development in the Green Belt. Accordingly the Authority has to now weigh in the balance any elements of harm associated with the use against any other material considerations.

The NPPF states in paragraph 88 that when considering planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, and that 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 circumstances.

Inappropriate development by definition is harmful to the interests of the Green Belt. However beyond that no element of "other harm" has been identified associated with the proposed dwelling.

The applicant has stated that the case for very special circumstances comprises a combination of a number of factors as follows:

- i. The existing building has consent for residential use by way of a prior notification application;
- ii. The proposed dwelling would be designed to Passivhaus standards, meaning it would be carbon neutral and higher than a Code Level 6 house;
- iii. The proposed rotation of the dwelling footprint would create a lesser impact on the Green Belt by reducing the projection of the buildings into the Green Belt and creating a building line that would accord with the adjacent existing buildings;
- iv. The proposed development comprises good design and would be appropriate in terms of character and appearance to its setting (more so than the fallback);
- v. The proposal would not compromise any of the purposes of including land in the Green Belt.

With regard to the first of the factors referred to by the applicant, it is the case that consent has recently been granted for the conversion of an existing outbuilding at the site to a dwelling (Ref. 14/00802/COUNOT) and the house now proposed would replace that existing outbuilding. This is considered to represent a genuine fall-back position that is likely to be implemented if this planning application is not successful.

It is therefore necessary to consider whether the current proposal would have any materially greater impact upon the openness of the Green Belt than the fall-back position i.e. the converted outbuilding. The applicant's agent has submitted a comparison of the footprint and the volume of the existing and proposed development. The existing footprint and volume calculations include another outbuilding (other than that which has consent for conversion to a dwelling) and conclude that there would be a reduction in footprint area of 90 square metres and a reduction in volume of 222 cubic metres as a result of the proposals. Your Officer does not consider it appropriate to include this additional building and therefore has compared the proposed dwelling to just the outbuilding that could be converted. On this basis, there would be a reduction in area of 13% and an increase in volume of approximately 18%. Whilst there would be an increase in volume, the area would be reduced and overall, it is not considered that the proposed scheme would have any materially greater impact on the openness of the Green Belt than the fall-back position.

The applicant also makes reference to the proposed rotation of the dwelling footprint which is claimed would create a lesser impact on the Green Belt. Whilst the proposed building would project to a lesser extent into the Green Belt to the west than the existing outbuilding, it would project further to the north and would be closer to the public highway. It is not considered therefore that this can be given any weight.

The applicant intends for the proposed dwelling to be designed to 'Passivhaus' standards, meaning it would be carbon neutral and higher than a Code Level 6 house. The dwelling would be a self-build project for a local architect and the building would therefore be a showcase demonstrating to clients how high quality architectural design, materials and workmanship can be combined with low energy technologies to deliver sustainable, affordable development. Whilst the applicant's intention to achieve 'Passivhaus' standard is commended, national policy objectives seek to reduce carbon emissions in any event and the objective applies equally to homes in other locations. As such this does not amount to a very special circumstance.

The applicant also argues that the proposed development comprises good design and would be more appropriate to its setting in terms of character and appearance than the fall-back scheme. As referred to above, your Officer considers that the proposed design of the building is acceptable. In allowing an appeal for the conversion of a barn to a dwelling at Moss House Farm, Bignall End (Ref. 13/00755/FUL), the Inspector gave weight to the fact that the current run down and derelict appearance of the barn would be significantly improved as a consequence of the proposal. She stated that the proposal would result in the removal of a further substantial concrete block structure which although generally agricultural in appearance and not untypical of a rural area, is large and functional in appearance. Its removal would result in an increase in openness within the site in the Green Belt. It is considered therefore that weight can be given to the argument that the proposed new dwelling would be an improvement to the character and appearance of the site.

Finally, your Officer agrees with the applicant's agent that the proposal would not compromise any of the five purposes of including land within the Green Belt.

In conclusion, whilst it is considered that some of the applicant's case for very special circumstances cannot be given any real weight, it is considered that the fall-back position and the argument that the proposed scheme would not have any materially greater impact on the openness of the Green Belt than the fall-back position, is a material consideration. In addition, it is considered that the proposed dwelling would have a beneficial impact upon the character and appearance of the site. It is considered that these factors outweigh the harm arising from just the fact that the development is inappropriate, and therefore the required very special circumstances can be considered to exist in this case.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

In terms of sustainability, as indicated above it is considered that the site is in a relatively sustainable location. Although the development comprises inappropriate development within the Green Belt, it is considered that very special circumstances exist that outweigh the harm by reason of inappropriateness. It is not considered that the adverse impacts of allowing the proposed development significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

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 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 H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3:	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4:	Development and Nature Conservation – Use of Local Species
Policy N12:	Development and the Protection of Trees
Policy N17:	Landscape Character - General Considerations
Policy N20:	Area of Landscape Enhancement
Policy S3:	Development in the Green Belt
Policy T16:	Development – General Parking Requirements

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (PPG) (2014)

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance relating to the control of residential development

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

Relevant Planning History

04/00637/FUL	Replacement agricultural building	Approved
13/00627/FUL	Demolition of redundant agricultural buildings, conversion of barn to dwelling and erection of extension and garage	Approved
14/00229/FUL	Variation of Conditions 2 and 4 of planning permission 13/00627/FUL to refer to an amended plan showing a revised access and parking area and omission of the garage, and deletion of Condition 3 referring to the garage	Approved
14/00802/COUNOT	Prior notification of a proposed change of use of building from agriculture to a dwelling	Granted

Views of Consultees

The **Environmental Health Division** has no objections subject to contaminated land conditions.

The **Landscape Development Section** has no objections subject to conditions.

The **Highway Authority** has no objections subject to conditions.

The views of **Audley Rural Parish Council** have been sought, however as the due date has passed it is assumed that they have no comments.

Representations

None

Applicant's/Agent's submission

The application is accompanied by a Planning Statement, a Landscape Design Report, an Access Briefing Note, a Preliminary Risk Assessment and Supplementary Report and a Bat and Bird Survey Report. All of these documents are available for inspection at the Guildhall and on www.newcastle-staffs.gov.uk/planning/1500206FUL

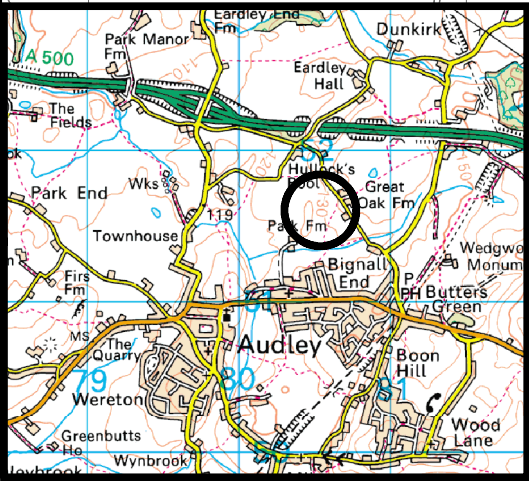
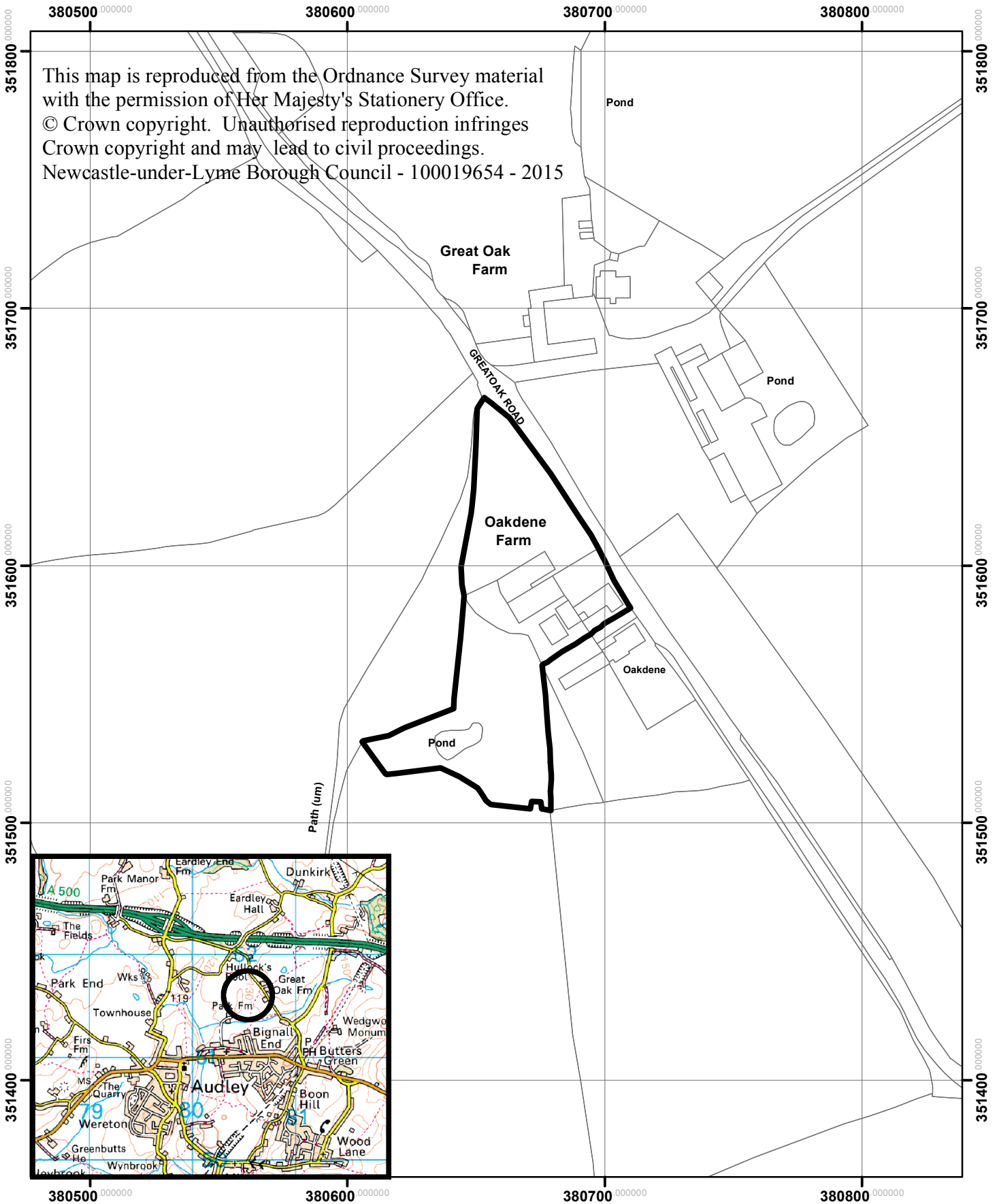
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared
10 April 2015

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Land And Buildings Adjacent To Oakdene Farm Great Oak Road Bignall End 15/00206/FUL



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Applications for Financial Assistance from the Conservation and Heritage Fund for, Mow Cop Community Hall, Mow Cop Road, Mow Cop (Ref: 15/16001/HBG) and Blackbrook milestone (near Swan with two necks) (Ref: 15/16002/HBG)

RECOMMENDATION:

That the following grants are approved:-

- 1. £1,008 for the repairs to the roof of Mow Cop Community Hall (former School to St Thomas Church), subject to the appropriate standard conditions**
- 2. £206 for the repair of the Blackbrook milestone, subject to the appropriate standard conditions**

Purpose of report

To enable members to consider two applications for financial assistance.

1. Mow Cop Community Hall

This building is a Grade II Listed Building and has been managed by a local community group since 2011. The hall is the former school to St Thomas Church . The group have refurbished the building and improved the facilities and have had previous small grants from the Conservation and Heritage fund totalling £1,357. The roof is leaking and the group have received 2 quotations to repair the roof. The work is urgent so that the damp penetration does not undo all of the positive work which has been undertaken to refurbish the building.

The total cost of the current work to the roof is £5,040 including VAT. The works are eligible for grant up to 20% of the total costs which comes to £1,008. This is the recommended grant

2. Blackbrook Milestone

This project by the milestone society is by a volunteer organisation wishing to repair and reinstate highway heritage by looking after milestones in Staffordshire. Dating from 1894, the milestone is a Grade II Listed Building adjacent to the well-known road junction on the A51. It is made from cast iron but its fragments have been badly damaged and it has been recovered by a milestone society volunteer. Repair of the milestone will be undertaken by specialist blacksmiths and the painting and decorating will be undertaken by volunteers of the society at a cost of £60.

The quotation for the work is £1,032 including VAT. The work is eligible for grant up to 20% of the total cost which comes to £206. This is the recommended grant.

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

Financial Implications

There is sufficient funding to meet both grant applications with £32,000 in the Fund allowing for commitments.

APPEAL BY MR ROBERT NEWTON-CROSS AGAINST THE DECISION OF THE COUNCIL TO REFUSE OUTLINE PLANNING PERMISSION FOR A TWO/THREE BEDROOM CHALET STYLE BUNGALOW AT LAND BEHIND NO.5 PINWOOD DRIVE, ASHLEY HEATH.

<u>Application Number</u>	14/00053/OUT
<u>Officer Recommendation</u>	Approval
<u>LPA's Decision</u>	Refused by Planning Committee, contrary to officer recommendation, on 3 April 2014
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	11 March 2015

In determining the appeal the Inspector set out the main issue to be the effect on the character and appearance of the area. He noted that:

- Pinewood Drive is a private, tree lined street where properties are set back from the road behind landscaped frontages. The area is characterised by large detached houses and bungalows, of varying designs and styles interspersed with open green spaces and established tree and hedgerow planting. Such features combined with the generous landscaped plots create a sense of spaciousness which contributes significantly to the open, landscaped character of this mature residential area.
- Due to the irregular shape of the land in question the footprint of the new dwelling would involve the development of a significant proportion of the plot. The extended driveway and provision of a parking and turning area would add to the urbanising impact of the scheme. As such, the building to plot ratio would be significantly higher than that of surrounding dwellings. It would therefore result in a cramped form of development which would detract from the established structure and layout of the area, which is defined by large detached properties, set in spacious landscaped plots.
- The Council's concern that the approval of this proposal could be used in support of such similar schemes is a realistic and specific as there are various open spaces to the side and rear of properties in Pinewood Drive which could potentially be built on and seriously erode the character and appearance of the area. Allowing the appeal would make it more difficult to resist further planning applications for similar developments, and such a cumulative effect would exacerbate the harm identified.
- In the absence of a 5 year housing supply it was necessary to weigh the benefits of the development against harm in accordance with the National Planning Policy Framework (Framework). In this case the benefits of the appeal scheme were the small contribution towards addressing the current shortfall in housing supply within the Borough. In addition, the site's accessible location close to shops, services and public transport nodes added to its sustainability credentials.
- The Inspector found that the benefits referred to did not substantially and demonstrably outweigh the harm that would be caused to the character and appearance of the area. Consequently, the proposal would not represent sustainable development in the context of the Framework's policies.
- The Inspector's attention was drawn to an appeal decision from 2005 also for the erection of a dwelling on the site. Although the Inspector has found that policies concerning the protection of the countryside are out of date, and the current scheme would not impact on any trees of significant amenity value, he reached a similar conclusion on the proposals impact on the character and appearance of the area. Accordingly, the appeal was dismissed.

Recommendation

That the decision be noted.

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APPEAL BY MR STEPHEN FEARNs AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT A LAWFUL DEVELOPMENT CERTIFICATE FOR THE EXISTING USE OF LAND AS GARDEN AT LYMES FARM HOUSE, LYMES ROAD, BUTTERTON.

<u>Application Number</u>	14/00240/ELD
<u>LPA's Decision</u>	Refused by delegated authority on 5 June 2014
<u>Appeal Decision</u>	Dismissed
<u>Costs Decision</u>	i) Full award of costs against appellant ii) Applicants costs claim refused
<u>Date of Appeal Decision</u>	2 February 2014

The appeal decision

The appeal was dealt with by way of Public Inquiry. The Inspector considered that the main issue was whether the Councils decision to refuse lawfulness was 'well founded'. All evidence was taken on oath. The key points of the Inspector's decision are summarised as follows:

- Lymes Farm has been the subject of various enforcement investigations by the Council since 2001.
- The burden of proof is on the appellant and the standard of proof is the balance of probabilities. It is not necessary for the appellant's own evidence to be corroborated for it to be accepted but if the Council has conflicting evidence this could indicate that the appellant's case is less than probable.
- It was evident from Mr Fearn's approach to the inquiry that he did not consider that the onus was on him to demonstrate on the balance of probability that a material change of use had taken place. Instead, he appeared to believe that the Council should investigate its files to prove the case, but even when the Council referred to their files, the appellant's interpretation of them was at variance with the facts.
- The appellant referred to two letters which made no reference to domestic garden use and therefore did not provide any evidence to support the appellant's case. A third letter did refer to use of land as a domestic garden and in response the appellant, having clearly acquainted himself with aspects of planning guidance and legislation, was of the view that the site was in agricultural use and not within the domestic garden. He stated the structures on the land were for agricultural purposes.
- Following investigations the Head of Planning reached the conclusion in 2007
- The other evidence (including an enforcement report and its conclusions; a witness statements; and aerial photographs) did not, in the Inspector's opinion, support a conclusion that a material change of use has taken place for a continuous period of ten years. If a change of use had taken place then the ten year period would have been broken in view of the appellant's unequivocal assertion in March 2007 that the land was in agricultural use. Additionally the use of part of the site for the stationing of a caravan for residential purposes indicates a break in use.
- The appellant failed to identify with any precision whether a smaller part of the appeal site could be identified as having changed its use to a domestic garden for the required period. However, on the basis of the evidence it is possible that the part of the appeal site consisting of the stable and greenhouse has been used as a domestic garden for a considerable period of time but the Inspector could not conclude that this was probable based on the appellant's assertions about the agricultural use of the buildings and the land. The evidence in respect of other parts of the appeal site is insufficient to conclude that any such areas could be granted lawfulness for use as domestic garden.
- The evidence is quite clear that the appellant has not demonstrated on the balance of probabilities that a 10 year period of continuous use of the land as a domestic garden.

- The Inspector concluded that the Council's refusal to grant a lawful development certificate in respect of the use of land as residential garden was well founded.

Costs Decisions

Costs applications were made by both the Council and by Mr Fearn. . The key points of the Inspector's decision are summarised as follows:

- The appellant failed to submit a proof of evidence and his statement of case referred only to the three letters from the Authority of 2001, 2007 and 2012, two of which were found to refer to buildings and not to the use of land. His bundle of emails did not constitute a proof as there was no concisely expressed argument upon which he sought to rely.
- Mr Fearn's contention that the Council had evidence that he was using agricultural land as domestic garden is an inadequate basis on which to appeal where the onus of proof is clearly on the appellant to prove the lawfulness of the use on the balance of probabilities.
- Although not professionally represented, Mr Fearn took the time and trouble in 2007 to acquaint himself with planning law in respect of agricultural development. For the appeal he had also looked at the Procedural Guidance, which indicates that while a Planning Authority should co-operate with an applicant, '.....they need not go to great lengths to show that the subject of the application is or is not lawful'. The Inspector was satisfied that the appellant had a reasonable knowledge of procedural matters beyond what would normally be expected of a layman.
- Mr Fearn repeatedly referred to other evidence at the inquiry that he chose not to introduce as he said that he had been advised by the Planning Inspectorate that he could be liable to an award of costs if he introduced late evidence. He also persisted in referring to the manner in which the Council had dealt with matters over a number of years and in dealing with the application, and claimed that the Council had failed to follow the guidance in the Procedural Guide. The implications of Mr Fearn's contentions is that had the Council searched its files, followed the Procedural Guide, met with the appellant prior to the decision, then the Certificate would have been issued and an inquiry would have been avoided. However, the appellant produced nothing in evidence to suggest that the outcome of the application or the appeal would have been different.
- The fact that the appeal was dealt with by way of inquiry and not by written representations would not have altered the outcome of the appeal or the costs application. Because of the nature of the evidence relied on by the appellant, it was necessary to hear this on oath and for the witnesses to be cross-examined.
- The failure of the appellant to submit a proof of evidence disadvantaged the Council. Repeated references to the manner in which the Council dealt with the application and the appeal wasted inquiry time and was distinctly unhelpful, despite frequent reminders from the Inspector for the Mr Fearn to focus on the necessary facts to support his case.
- The circumstances led to an unnecessary appeal resulting in an inquiry which has led to wasted expenditure by the Council.
- Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, was therefore demonstrated and a full award of costs to the Council was justified.
- With respect to Mr Fearn's claim for costs. Unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Guidance, was not demonstrated.

Recommendation

That the decisions be noted.

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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