

- 13 **Half Yearly Report on Planning Obligations** (Pages 77 - 84)
14 **Report on Open Enforcement Cases** (Pages 85 - 86)
15 **Quarterly Enforcement Management Report** (Pages 87 - 88)

16 **URGENT BUSINESS**

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

17 **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.

- 18 **Confidential Appendix to Half Yearly Report on Planning Obligations** (Pages 89 - 90)

Members: Councillors Baker (Chair), Bates, Braithwaite, Cooper, Hambleton, Heesom, Mancey, Northcott, Proctor (Vice-Chair), Reddish, 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, 28th April, 2015

Present:-	Councillor Sophia Baker – in the Chair
Councillors	Becket, Mrs Braithwaite, Cooper, Mrs Hambleton, Miss Mancey, Northcott, Proctor, Miss Reddish, Mrs Simpson, Welsh and Williams
Apologies	Apologies were received from Councillor(s) Mrs Bates and Mrs Heesom

1. DECLARATIONS OF INTEREST

Councillors Mrs Braithwaite and Miss Reddish declared a personal interest in Planning application 14/00948/OUT.

2. MINUTES OF PREVIOUS MEETING(S)

Resolved: That the minutes of the meeting held on 31 March/1 April, 2015 be agreed as a correct record.

3. APPLICATION FOR MAJOR DEVELOPMENT - HAMPTONS METAL MERCHANTS AND LAND ADJOINING KEELE ROAD; MR JM & NW HAMPTON; 14/00948/OUT

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

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.

4. **APPLICATION FOR MINOR DEVELOPMENT - MULTI STOREY CAR PARK, THE MIDWAY; NEWCASLTE UNDER LYME BOROUGH COUNCIL; 15/0241/DEEM3**

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

- (i) Commencement of development within three years.
- (ii) Development in accordance with the submitted plans.
- (iii) Materials and colour of the security fencing to be in accordance with the submitted details.

5. **APPLICATION FOR MINOR DEVELOPMENT - FORMER FIRE STATION ASHLEY; ROBERT DUNCAN HOMES LTD; 15/00017/FUL**

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

- (i) Commencement of development
- (ii) Plans referred to in consent
- (iii) Prior approval of materials, boundary treatments and surfacing materials
- (iv) Contaminated land
- (v) Noise levels
- (vi) Provision of access, parking and turning before occupation and subsequent retention
- (vii) Closure of redundant accesses
- (viii) Retention of visibility splays free of obstruction.
- (ix) Retention of garages for parking of vehicles and cycles.
- (x) Construction Method Statement
- (xi) Surface water drainage

6. **APPLICATION FOR MINOR DEVELOPMENT - LAND AND BUILDINGS ADJACENT TO OAKDENE FARM, GREAT OAK ROAD, BIGNALL END; MR D WOODFINE; 15/00206/FUL**

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

- (xii) Commencement of development
- (xiii) Plans referred to in consent
- (xiv) Materials
- (xv) Contaminated land
- (xvi) Tree protection
- (vii) Compliance with recommendations of Landscape Design Report

(viii) Highway matters

7. **APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT)
- MOW COP COMMUNITY HALL AND BLACKBROOK MILESTONE**

- Resolved:**
- (i) That a grant of £1008 be approved for the repairs to the roof of the Mow Cop Community Hall (former School to St Thomas' Church, subject to the appropriate standard conditions.
 - (ii) That a grant of £206 be approved for the repair of the Blackbrook milestone, subject to the appropriate standard conditions.

8. **APPEAL DECISION - LAND BEHIND NO.5 PINWOOD DRIVE, ASHLEY HEATH**

Consideration was given to a report advising Members about the outcome of an appeal against application 14/00053/OUT. The appeal was dismissed.

Members commented that this was an example of where the officers' recommendation had not been taken and the decision not to do so had been the right one.

Resolved: That the decision and the comment be noted.

9. **APPEAL DECISION - LYMES FARM HOUSE, LYMES ROAD, BUTTERTON**

Consideration was given to a report advising members on the outcome of an appeal against application 14/00240/ELD. The appeal was dismissed.

Resolved: That the decision be noted.

10. **DISCLOSURE OF EXEMPT INFORMATION**

Resolved:- That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs 5 in Part 1 of Schedule 12A of the Local Government Act, 1972

11. **OLD SPRINGS FARM; 12/00068/207C2**

Resolved: That the recommendation be noted.

12. **URGENT BUSINESS**

Members were issued with a list of Site visits for the next Municipal Year.

Resolved: That the site visit dates be accepted.

COUNCILLOR SOPHIA BAKER
Chair

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HUXLEY BUILDING, KEELE UNIVERSITY
KEELE UNIVERSITY

15/00235/FUL

The application seeks full planning permission for the erection of a part 2 storey, part 4 storey extension (in height) along with elevational alterations to the Huxley Building.

A total of approximately 1550 square metres of new floorspace is proposed

The alterations proposed to the existing building include new cladding and new windows.

The extension is needed to house additional teaching laboratory space due to anticipated student growth in scientific academic study.

The site lies outside of, but adjacent to, the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall. This part of the University campus lies within the Rural Area and a Landscape Maintenance Area, but not within the Green Belt, all as indicated on the Local Development Framework Proposals Map.

The 13 week period for the determination of this application expires on 22nd June 2015.

RECOMMENDATIONS

- A. Subject to no representations being received by the 2nd June which raise material planning objections to the development which have not already been addressed in this report and which cannot be addressed by appropriate conditions.**

PERMIT subject to conditions relating to the following:-

- 1. Time limit**
- 2. Approved drawings**
- 3. Materials**
- 4. Off-site replacement tree planting and on-site landscaping scheme**
- 5. Tree protection measures during construction inclusive of provision to retain tree T3**

- B. If such representations are received, that the application be referred back to a subsequent meeting of the Planning Committee for reconsideration**

Reason for Recommendations

The extra space proposed is required to meet an area of student growth identified by the University. The development will enhance the appearance of the existing building which is in need of rejuvenation. Trees of amenity value would be lost but as a consequence of the development but the loss is unavoidable if this building is to be extended, given this location is the only sensible option available to increase the size of the existing building. It is also the case that 'one for one' replacement tree planting is proposed elsewhere on the campus in order to mitigate the tree loss which whilst regrettable is not materially harmful to the prevailing character of the area. The last date for public comment on this application does fall after the date of the Committee, so an appropriate delegated authority does need to be obtained to ensure that the final decision of the Authority is made after the end of that period, and any further comments made by that date are taken into account.

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

The application is for extension and alteration of the Huxley Building. The building is currently used for Biology/ Life Science functions of the University. It sits on a site measuring approximately 0.5 of a hectare. The Faculty of Natural Sciences, of which Biology/ Life Sciences is part of is located in several buildings on the campus – known as the Colin Reaves, Huxley, Lennard Jones and William Smith buildings.

The extension proposed has a maximum height of 15.5 metres lowering to 8.5 metres due to sloping ground levels and the number of storeys proposed. The extension is needed to provide additional teaching spaces with associated office, storage and ancillary support facilities. It is to be situated on land which presently consists of trees and soft landscaping. Some tree removal is required in order to build the extension.

In terms of alterations to the existing building this entails new composite panel cladding. The cladding is to match the new extension and a main entrance feature point. Existing windows are also to be replaced with double glazed aluminium windows finished in grey.

The site lies outside of, but adjacent to, the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall. It does however fall within the Landscape Maintenance Area defined on the Local Development Framework Proposals Map.

The application does not include any provision for new areas of parking nor will it result in a reduction in existing parking levels. The University has stated there is sufficient parking elsewhere within the campus to accommodate the extension without any additional capacity required for this particular development. Those views are accepted by officers. The key issues therefore to consider are:-

1. Is the design of the development, including the impact on the special character of the nearby historic parkland and on the landscape as a whole, acceptable?
2. Is the tree loss proposed acceptable?

1. Is the design of the development, including the impact on the special character of the nearby historic parkland and on the landscape as a whole, acceptable?

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. The policy is consistent with the NPPF.

The prevailing character of the area consists of existing campus buildings with mature trees in the background. The proposed extension together with the alterations have been designed to give a more modern appearance to the existing building façade. The elevations proposed mostly comprise of a mixture of green terracotta panels, and structural glazing, with a masonry plinth band below. Another key component of the design is that the new entrance has been emphasised to be the main focal point replacing the current low key entrance point serving the building. This is achieved by a narrow four storey element projecting out towards Central Drive. New soft landscaping is to be introduced around the edges of the development.

The appearance of the alterations involves enhancement – uplifting the existing tired appearance of the building. The architecture proposed incorporates a vertical and horizontal emphasis to the building to generate interest and a bespoke quality. It is not considered necessary to require further alterations to the glazing design as suggested by the Council's Conservation Officer. The position, scale and appearance of the extension itself does not impact harmfully on the Park and Garden the nearest part

of which is situated diagonally opposite across Keele Hall Road. Contextually the Historic Park and Garden incorporates many halls of residence and university buildings. There are however tree removal matters which also need to be borne in mind which are now considered.

2. Is the tree loss proposed acceptable?

Saved Local Plan Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. Where exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme. Where appropriate, developers will be expected to set out what measures will be taken during the development to protect trees from damage.

A total of 7 trees need to be removed to facilitate the built development. None of the trees concerned are subject to a Tree Preservation Order but they do have amenity value – with all being assessed as being of quality B. The Design and Access Statement indicates that several alternative options were considered, including extending other buildings of the same Faculty but for operational reasons the decision made was to propose an extension to the Huxley building. As some of the consultees acknowledge, the scale of the tree loss is less significant when compared with the total tree cover in the vicinity. ‘One for one’ tree replacements are proposed on sites adjacent to the David Weatherall Building elsewhere on the campus which is next to the main entrance to the University – that would not compensate for the loss but it should still be sought.

There is a recommendation from the Landscape Development Section that another tree (a mature oak of ‘A’ quality), opposite the entrance to the Lennard Jones building should be retained – the reason for its removal being a proposed realignment of the adjacent road. This is a particularly visually prominent tree that forms a focal point on Central Drive. The University’s planned changes to the kerb line of and lighting of Central Drive which is a main pedestrian thoroughfare for students apparently make that approach difficult and the preference of the University is to remove the tree. Whilst the loss of the other trees is justified by the need for the extension which is the subject of this application, such an argument does not apply to this other tree particularly given it’s ‘A’ quality.

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

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

Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP2: Historic Environment
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy N17: Landscape Character – General Considerations
Policy N19: Landscape Maintenance Areas
Policy N12: Development and the Protection of Trees

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (PPG) (2014)

Supplementary Planning Guidance/Documents

Planning for Landscape Change – Supplementary Planning Guidance to the Structure Plan

Relevant Planning History

None relevant.

Views of Consultees

Keele Parish Council consider that the loss of trees is regrettable in this location and ask that a condition be included to ensure that trees are replanted elsewhere or landscaping provided to ensure that the strong green character of the campus is retained.

The **Conservation Area Working Party** felt that even though the scale of the new extension was considerable, it would not be a harmful impact of the Historic Park and Garden nearby.

Environmental Protection have no objections subject to:-

1. Internal noise levels being provided as proposed.
2. Construction hours being restricted

The Council's **Urban Design and Conservation Officer** comments that the mature trees on site to be removed is regrettable but the other trees in close proximity to the site will be retained and still provide the right setting for the new extension. Based on the information provided, the new extension and creation of landscaped spaces and seating around the building give it an uplift and enlivenment quality. The contemporary design proposed takes reference from the existing building and will not impact harmfully on the Park and Garden which is situated opposite the Drive.

The **Landscape Development Section** comment that it is disappointing that the proposal would mean the loss of so many significant mature trees. The small space in which the trees are growing is typical of the green spaces that are important to the character of this part of the university. Nevertheless the scale of tree loss is less significant when compared to the total tree cover in the vicinity and they would accept the loss of trees necessary for the building. However the reason for the proposed removal of the important category 'A' oak tree, is due to proposed realignment of the adjacent road (Central Drive) and the Section object to removal of that tree. This tree if retained would be visually prominent and a focal point. It is requested that more detailed information is provided in relation to how it is proposed to modify the road and that adjustments are made to enable the tree to be retained, including construction details and special engineering as necessary. The loss of other specified trees will reduce the screening and create a gap to Keele Hall Road through which the proposed building will be clearly visible. The proposal to replant elsewhere on the campus does not compensate the tree loss to the development site, however the Section would support this being done to balance total tree cover over the campus. Permission if granted should be subject to provision of tree protection measures for remaining trees in the vicinity of the works. Permission should also be subject to approval of a landscaping scheme, including replacement tree planting elsewhere.

The **Garden History Society** have also been consulted but no comments have been received from them by the due date.

Representations

None received

Applicant's/Agent's submission

Application forms and indicative plans have been submitted along with a Design and Access Statement, Noise Assessment, Arboricultural Impact Assessment and Planning Statement. The application documents are available for inspection at the Guildhall and via the following link www.newcastle-staffs.gov.uk/planning/1500235FUL

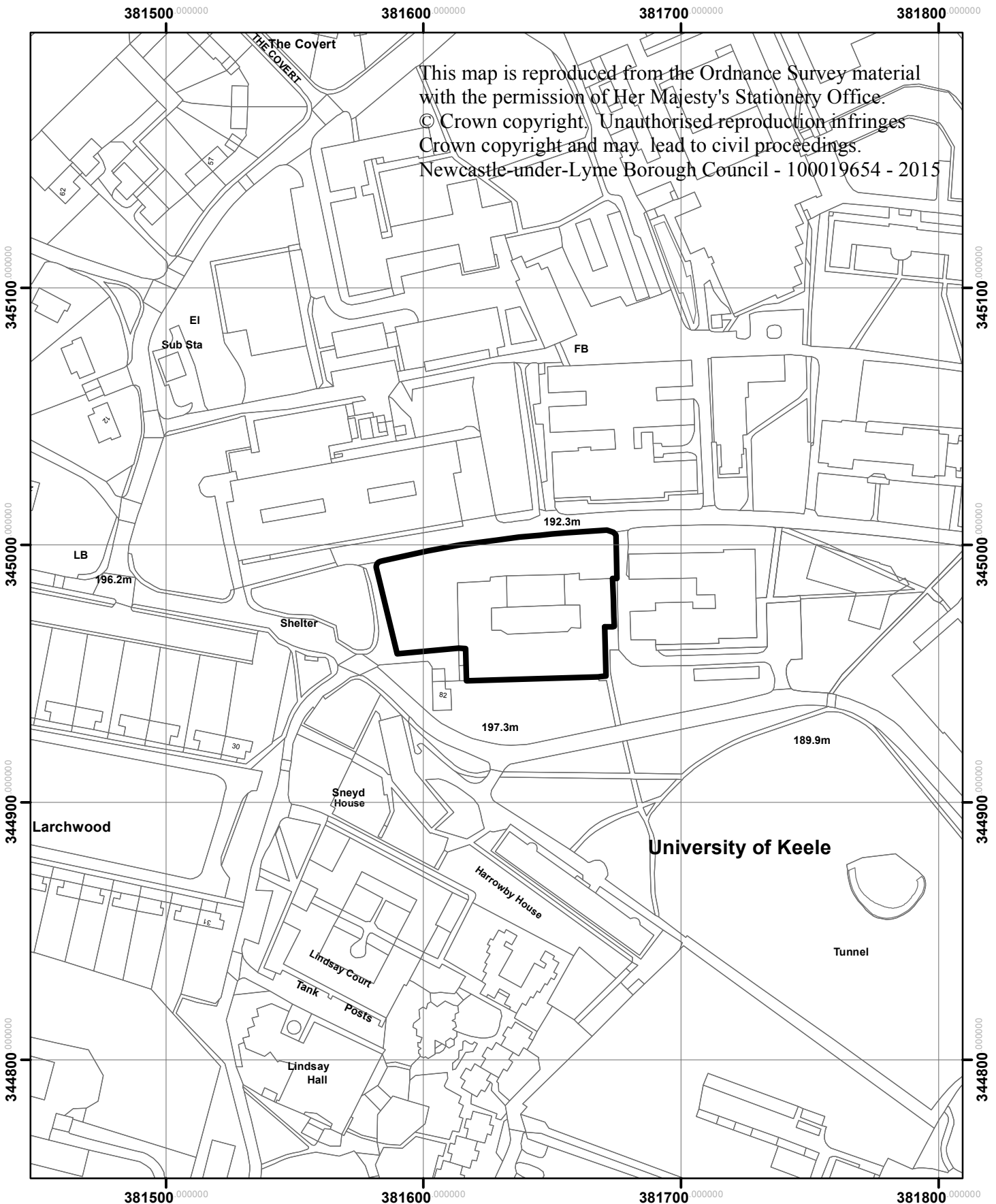
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

14th May 2015

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THE SKYLARK PUBLIC HOUSE, JAMAGE ROAD, TALKE PITS
MILWOOD LTD

15/00329/FUL

The Application is for full planning permission for the demolition of the existing public house and the erection of 10 dwellings.

The application site, of approximately a third of a hectare in extent, currently contains a former public house and its associated car parking and beer garden. It is within the urban neighbourhood of Kidsgrove, as indicated on the Local Development Framework Proposals Map. The site lies directly adjacent to the boundary of the Talke Conservation Area.

The 13 week period for the determination of this application expires on 15 July 2015.

RECOMMENDATION

A. Subject to the applicant first entering into Section 106 obligation by 10th July 2015, to secure a contribution of £1,500 per dwelling to improvements to facilities at Chester Road playground and their maintenance,

PERMIT subject to the conditions concerning the following matters:-

- 1. Time limit and plans**
- 2. Materials, hardstandings and boundary treatment details as per submission**
- 3. Construction hours**
- 4. Contaminated land (demolition excluded from commencement)**
- 5. Specified glazing details**
- 6. Submission and approval of a plan showing a continuous 1.8 m footway and visibility splays**
- 7. Restriction of garages to car parking only**
- 8. Removal of existing site access on Jamage Road**
- 9. Access drive being of a porous bound material**
- 10. Full soft landscaping details**
- 11. removal in some cases of permitted development rights for extensions, alterations, outbuildings & hardstandings**

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that without the obligation being secured, the development would fail to secure an appropriate contribution for the improvement to off-site public open space which would reflect the infrastructure needs of the development; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

It is considered that the proposed development would meet sustainable development objectives and would have an acceptable design and layout that would meet development plan policies and the guidance and requirements of the National Planning Policy Framework. No significant and adverse harm would be caused to existing and proposed residential amenity levels and highways safety implications would also be limited. There are no other material considerations which would justify a refusal of this application.

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

Discussions have been ongoing throughout the application process and it is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

This application is for full planning permission for the demolition of the existing public house and the erection of 10 detached residential dwellings.

The application follows a previous approval in 2013 (13/00103/FUL) for the demolition of the existing public house and the erection of 14 dwellings, alterations to accesses, associated landscaping and car parking. This planning permission is still extant and is material to the determination of the planning application, both as a fallback position and in terms of the LPAs' consideration of issues that it may have raised. That permission was granted following the completion of an agreement securing the payment of £2943 per dwelling towards public open space improvement and maintenance..

The key issues for consideration in the determination of this new application are:-

- Principle of the development and the loss of community facility
- Design and impact on the character and form of the area
- Impact on residential amenity levels
- Impact on highways safety
- Landscaping matters/ Public Open Space considerations,
- The implications of the November 2014 Ministerial Statement, and
- Other matters

Principle of the development and the loss of community facility

It was accepted when determining the application 13/00103/FUL, in September 2013, that the principle of residential development on this site would represent a sustainable form of development that would help contribute towards the Council achieving a five year supply of housing land, as required by paragraph 49 of the NPPF. This permission is still extant and capable of being implemented. However, the development now proposed is for 10 dwellings (as opposed to the 14 previously approved).

The Council is still in a position whereby it cannot demonstrate a five-year supply of housing land and it remains that the use of the site as a private community facility is not considered to be viable in this instance.

On the basis of the above, it is considered that the principle of residential development in this location is acceptable and should be supported.

Design and impact on the character and form 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.

Policy CSP1 of the CSS under the heading of 'Design Quality' advises new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape. The Urban Design SPD further expands on this by advising in R14 that "Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them."

The previously approved scheme for 14 dwellings had a layout that split the dwellings into two blocks of terraces. This was considered acceptable acknowledging that the site has an awkward shape and topography.

The site has a number of challenges, most notably its shape and the split in ground levels. The existing public house is in an advanced stage of disrepair and has an unattractive and harmful

appearance within the street scene. This is also the view of objectors who do not oppose the principle of redevelopment of the site.

The proposal is now for 10 detached dwellings that front and take access from Jamage Road, High Street and Hurst Close. Two house types are proposed which represent an acceptable standard of design and the applicant has made efforts to ensure that certain plots have additional features and design interest within side elevations in order to avoid solid blank gables facing a highway (in particular plots 1 & 6). These fall short of being classed as dual frontage properties but the overall design of the dwellings, the variety in style, use of materials and potential landscaping would ensure that the development as a whole would enhance the site and visual amenity of the area in general.

Amended plans have also been received which provide further design improvements which include orientating plot 9 so that it fronts the incidental open space at the junction of Jamage Road and High Street. This would be a further enhancement with vantage points from Crown Bank now seeing a front elevation rather than a side gable, as was previously proposed. The development now ensures that the important view down the adjacent linear Crown Bank Conservation Area is protected (as required by NLP Policy B10), and indeed it should be enhanced by the development.

Further benefits of the development would be the active frontages of the properties and whilst some high boundary treatments are required at the back of the footway these would be a high standard of design and no significant concerns are raised. Streetscene plans have also been submitted to show cross sections through the site and no significant concerns are raised with relation to ground levels.

Impact on residential amenity levels

Paragraph 17 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

As discussed the proposed dwellings would front Jamage Road, High Street and Hurst Close. The proposed dwellings are unlikely to result in any significant loss of residential amenity to existing neighbouring properties due to their design and the relationship with these properties.

The separation distances between plots within the proposed development will fundamentally comply with the Council's supplementary planning guidance and an appropriate level of private amenity space for each plot would be achieved. Permitted development rights for at least some of the plots should be removed for extensions and outbuildings due to the limited rear garden sizes in some cases and the close interrelationships created. Rights to make roof alterations without consent should also be removed to ensure that control can be exercised and similarly hardstandings should be able to be controlled within the front gardens.

Walls and fencing are proposed and, subject to conditions regarding glazing and ventilation systems, appropriate levels of residential amenity should be achievable. A construction hours condition is also advised and considered appropriate in this instance.

Impact on highways safety

NLP Policy T16 details that for a three bedroom dwelling there should be a maximum of two off street car parking spaces per dwelling.

In this instance all the dwellings would have three bedrooms and the application plans show that two off street car parking spaces would be provided for each dwelling in either a garage and a driveway or a driveway. Where one space is to be provided within a garage, namely plots 5, 7, & 8, it is considered appropriate to restrict them to vehicle parking and they should not be converted to internal living areas at any time. This would reduce the potential highway safety problems from vehicles parking on the highway.

The Highways Authority (HA) has raised no objections subject to conditions but the applicant has sought to provide the information on an amended site plan now received because they wish to proceed very promptly with the development, and they do not want any delay associated with having

to obtain approvals of details required by conditions. This amended plan has been forwarded to the HA for further comment and if received in time such comments will be reported and if the details are acceptable then the conditions should be adjusted to reflect this.

All of the representations received raise concerns about potential highway safety implications of the proposed development on Hurst Close in terms of on street car parking, flooding and congestion. The proposed development will increase vehicle movements onto Hurst Close due to 6 plots having their access drives onto it. The HA have raised no concerns in this respect and subject to a number of highways measures which would improve the proposal it is considered that no substantial objection can be raised due to satisfactory off street car parking being proposed, acceptable visibility splays and the use of porous materials to prevent water run off onto the highway.

Landscaping matters and Public Open Space considerations

The Landscape Development Section (LDS) requested further information to assess the impact of the development on trees within the site. Trees on the site were not covered by a Tree Preservation Order and have been removed from the site. The applicant says that this was done prior to them taking over the site and the application being submitted. A satisfactory level of soft landscaping is proposed within the front and rear gardens. The incidental open space, which lies beyond the application site (and within the highway verge) appears to be well landscaped and an attractive feature in the locality. The proposed development, as now reorientated, is considered to compliment this area and the street scene in general..

The LDS have requested a financial contribution for off-site open space improvements in the order of £2943 per dwelling, equating to a total of £29,430, this contribution if secured would be proposed to be used for improvements to facilities at Chester Road in line with Newcastle Local Plan Policy C4, Core Spatial Strategy policy CSP5, the Developer Contributions SPD and the Urban North Staffordshire Green Space Strategy. As already indicated such a contribution was previously achieved with respect to the previous scheme in 2010.

The implications of the Ministerial Statement of November 2014

Members have been previously made aware of the Ministerial Statement of the 28th November 2014 on Section 106 obligations imposed on small-scale developers, custom and self-builders which details that affordable housing and tariff style contributions should not be sought from developments below the 10 unit/1,000 sq m threshold. However, the Planning Practice Guidance (PPG) indicates "contributions should not be sought from developments of 10 units or less, and which have a maximum combined gross floorspace of no more than 1000 sq m (gross internal area)". There is therefore an apparent divergence between national policy and national guidance.

The proposed development is for 10 units and has a combined gross floor space of less than 1,000 sq metres (gross internal area). The applicant is of the opinion that public open space contribution is a tariff style contribution and should not be sought from the LPA. However, officers have considered the wording of the Planning Practice Guidance (PPG) and are of the view that the contribution towards the provision, upgrading and maintenance of public open space is not a tariff style contribution because it is not a contribution towards "a funding pot intended to provide common types of infrastructure for the wider area" or a funding pot "intended to fund the provision of general infrastructure in the wider area". In this instance it will be towards a specific project, namely Chester Road playground.

The spirit of the Ministerial Statement is clear (the government considers that contributions are imposing a "disproportionate burden on small-scale developers") as is the policy imperative (for example in para 47 of the NPPF) of the planning system significantly boosting the supply of housing. The POS contribution requirement which already only applies to developments of 10 units or more, is based upon a policy contained within the development plan and in the absence of contrary information, seeking such a contribution would not be contrary to the Government's stated policy as set out in the Ministerial Statement on Section 106 obligations imposed on smallscale developers, custom and self-builders.

Without prejudice to their position that this is a situation where such contributions should not be sought the applicants have indicated that they are prepared to make a contribution of £1500 per unit towards public open space enhancement and maintenance. Given that there is some ambiguity as to the interpretation of the new national policy for sites of 10 units or less, this is considered a reasonable offer.

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 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 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 C12: Loss of Community Facilities
Policy N12: Development and the Protection of Trees
Policy B10: The requirement to preserve or enhance the character or appearance of a Conservation Area
Policy IM1: Provision of essential supporting infrastructure and community facilities.

Other material considerations include:

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

'Support for small scale developers, custom and self-builders' - Written Statement to Parliament by the Minister of State for Housing and Planning (28 November 2014)

Supplementary Planning Guidance/Documents

Space Around Dwellings (July 2004)
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)
Developer Contributions SPD (September 2007)
North Staffordshire Green Space Strategy (adopted December 2009)

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

Planning History

Planning permission was granted on 21.11.2013 for the demolition of the existing public house and erection of 14 dwellings, alterations to accesses, associated landscaping and car parking.

Views of Consultees

The **Highway Authority** raises no objections subject to conditions which seek revised plans which show a widened footpath along Hurst Close and visibility splays, the existing access being made redundant and the access drives being of a bound and porous material.

The **County Council as the Education Authority** advises the development falls within the catchment of Springhead Community Primary School and The King's CE (VA) School (the former

Clough Hall Technology College). Taking account of the 28th November Ministerial Statement referred to above they consider that they cannot request any education contribution, and in any case pupils generated by this development should be able to be accommodated at the schools concerned.

The **Landscape Development Section** advise that before they can comment they would require the a Tree Survey (covering trees on and overhanging the site), Arboricultural Implications Assessment and retained trees and RPAs shown on the proposed layout being submitted.

They also seek a developer contribution for off-site Public Open Space improvements equating to £2943 per dwelling, therefore totalling in this instance £29,430, which would be directed towards the Chester Road open space.

The **Environmental Health Division** has no objections subject to conditions regarding contaminated land, noise mitigation measures for internal and external areas, and construction hours.

The **Environment Agency** detail that the comments on the previous application still stand - they raised no objections.

Staffordshire Police Crime Prevention Design Advisor (SPCPDA) have detailed that they commend the design of this proposed development, which possesses some positive crime prevention layout features. However, there are a couple of aspects where slight alterations could enhance the security of the respective properties. These relate to the height and location of rear garden boundaries that should be considered further. A telecommunications box is identified as being a potential climbing aid for offenders to gain access to the rear garden. This should be re-sited in the first instance but if this is impractical planting (spikey species) should be explored. Secured by Design accreditation for the scheme should also be explored by the developer.

Waste Management Section raises no objections.

The **Coal Authority** have detailed that the application site within the defined Development Low Risk Area. If the proposal is granted planning permission then the Coal Authority's Standing Advice should be included as an informative on the Decision Notice in the interests of public health and safety.

The **Urban Design and Conservation Officer** notes that the southern boundary of the Talke Conservation Area which incorporates the historic stone wall which is characteristic of Crown Bank, runs along the edge of the pavement adjacent to the site. At present there are quite extensive views across the site and into and out of the Conservation Area. Whilst residential development of the site is not opposed by her, she does have some concerns (about the original submission) regarding boundary treatments and the orientation of the houses at the bottom of Crown Bank – wishing to ensure that visually the site has a better relationship to the existing environment.

United Utilities recommend a condition securing as separated drainage system

The views of the **Butt Lane LAP** and **Kidsgrove Town Council** have been sought, and as the date by which any comments were sought has passed they must be assumed to have no observations to make upon this application.

Representations

Five letters of representations have been received raising the following concerns:-

- The road width of Hurst Close is not suitable to serve 6 additional properties,
- Increased noise from additional vehicles,
- The previous plans approved had less traffic impact on Hurst Close,
- Business vehicles use Hurst Close to access premises that front High Street
- The proposal would exacerbate existing on street car parking problems and flooding,
- Ambulance access is required on Hurst Close on a regular basis and this and the proposal will combine to cause congestion,
- There is not enough information to make informed decisions regarding the plans,
- Existing surface water flooding is an issue on Hurst Close,

- The turning head of Hurst Close is currently congested,

The objectors however support the principle of the development of this unsightly site.

Applicant/agent's submission

The application is supported by the following documents :-

- Design and Access Statement
- Geo-Environmental Assessment

Where relevant, reference is made to points made within these documents within the key issues section above.

Amended plans have also been received

All of these documents are available for inspection at the Kidsgrove Service Centre and at www.newcastle-staffs.gov.uk/planning/1500329FUL

Background Papers

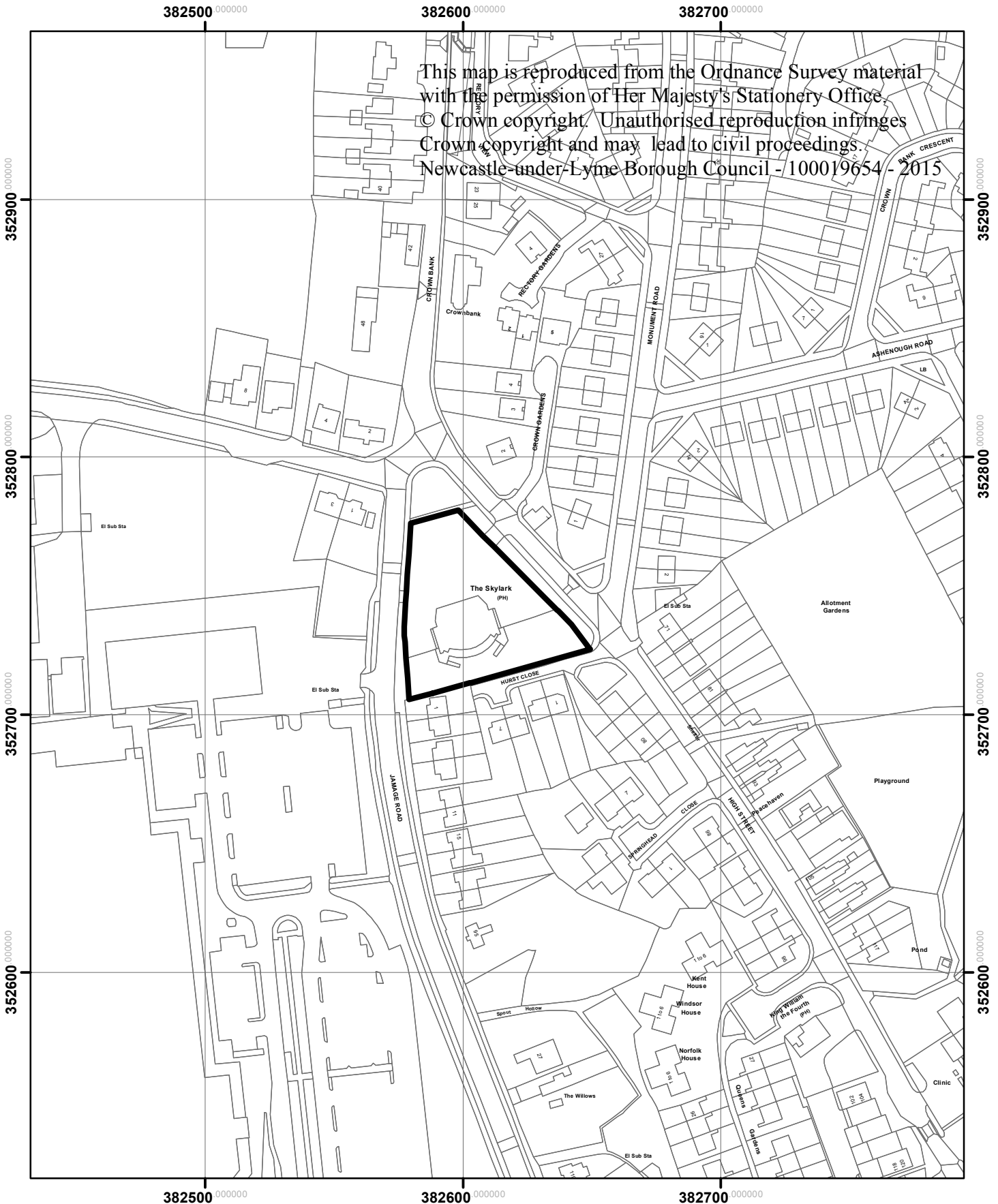
Planning file
Planning documents referred to

Date report prepared

14 May 2015

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The Skylark, High Street Talke 15/00329/FUL



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UNITS 1-7 FESTIVAL PARK, RIDGEHOUSE DRIVE, ETRURIA

M&G REAL ESTATE

SOTCC ref 58224/FUL (NuIBC ref 348/220)

The Borough Council has been consulted by the City Council on an application for full planning permission for the extension and subdivision of Unit 7, Festival Park, (currently Toys R Us) to create two units; rear extension to Unit 1 (formerly Comet) and alterations to Units 1-7 including installation of a colonnade canopy. Alterations to the car park are also proposed.

For any comments that the Borough Council may have on these proposals to be taken into account, they have to be received by the City Council by no later than 27th May.

RECOMMENDATION

That the City Council be advised that the Borough Council OBJECTS to the application on the following grounds:

- **the proposal involves Class A1 (retail) floorspace, a main town centre use as identified in the National Planning Policy Framework (the NPPF), in this out of centre location. Furthermore the applicant has not demonstrated, through the submitted sequential assessment, that the proposed development cannot be located within Newcastle on the site of the former Sainsbury's store on Ryecroft which is available within a reasonable time frame.**
- **Permitting the development would have an adverse impact on the committed and plant investment in the Ryecroft site within Newcastle Town Centre.**

Reason for Recommendation

Ryecroft, a town centre site, is a sequentially preferable site as it is both suitable and available for the proposed development. As the application fails to satisfy the sequential test it should be refused in accordance with paragraph 27 of the NPPF.

Key Issues

As indicated above, the Borough Council has been consulted by the City Council on an application for full planning permission for the extension of Unit 1, currently Toys R Us, by 203m² at ground floor, and a new mezzanine floor providing an addition 2,473m². The extended unit will be subdivided to create a unit of 1,621m² and a larger unit of 5,995 m². It is intended that the larger unit will be occupied by Next who will relocate their existing Festival site and Octagon Centre stores to this location where they can sell their full range of goods.

Toys R Us is to relocate to Unit 1. The existing mezzanine floorspace will be removed and a rear extension constructed resulting in a reduction in floorspace.

Overall there will be uplift in floorspace of 2,819m².

The principal issue that could adversely affect the interests of Newcastle Borough is the matter of whether the proposal conforms to policies on the location of retail development.

Acceptability of Class A1, retail, development in this location

Class A1 (retail) is defined as a main town centre use. Paragraph 24 of the NPPF states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town

centre. Applicants and LPAs should demonstrate flexibility on issues such as format and scale.

Paragraph 26 of the NPPF states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, an impact assessment of the development is required if over a proportionate, locally set floorspace threshold and if there is not the default threshold is 2,500m². Such an assessment should include assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre and the impact of the proposal of town centre vitality and viability.

The application is supported by a Planning and Retail Statement which includes a sequential assessment of a total of 9 sites, one of which, Ryecroft, is within the Borough. The assessment concludes that none of the sites are suitable, viable or available within a reasonable period of time.

The submission indicates that the redevelopment scheme for the Ryecroft site of the preferred development Henry Davidson Developments would not accommodate the proposed development as the indicative layout is not currently proposing large floorspace. In addition the agents consider that the Ryecroft site would not be available within a reasonable period of time as the Development Contract has been delayed and the Civic Offices will not be vacated until December 2016 and as such there can be no material start on site before that date.

In December 2013, when the application for an Aldi Store on the site of the former Blackfriars bakery was considered (13/00712/FUL), it was concluded by the Borough Council as Local Planning Authority that the Ryecroft site would not be available within a reasonable period of time, and therefore the sequential test was met in that case. Some 16 months later a preferred developer has been identified and plans for the redevelopment of the Ryecroft site are progressing. Whilst the date by which the site of the Civic Offices will be available is not yet known, the site of the former Sainsbury's and the associated parking areas are available now. It is feasible that development of that part of the site commences considerably in advance of the site of the Civic Offices as a two phased development. There is no basis to support any conclusion that such a development would not provide adequate floorspace to meet Next's needs. In addition the restrictive covenant that is understood could affect the redevelopment of the Sainsbury's store only affects food retailing and would not impose a constraint on a Next store.

It is accepted that it cannot be claimed that the Ryecroft site could be made available within a 12 month time period, which the submission suggests is the time period within which Next could occupy and be trading from Festival Park. It is, however, considered that the application has failed to provide a convincing case to support the claim that Ryecroft would not be available within a **reasonable** time period. In addition it is a site that could accommodate a Next store to meet their needs, and as such it is suitable.

As the proposed development provides over 2,500m² of floorspace the application the submitted Planning and Retail Statement includes an impact assessment. For similar reasons as advanced to dismiss the Ryecroft as being a sequentially preferable site the submission concludes that the proposed development would not have a significant adverse impact upon this committed investment in Newcastle Town Centre. The Ryecroft development is a committed and planned investment and it could accommodate a similar development as proposed. As such it cannot be concluded that the application proposal will not have a significant adverse impact on the proposed development at Ryecroft.

In summary Ryecroft, a town centre site, is a sequentially preferable site as it is both suitable and available for the proposed development and will be adversely impacted upon as a planned investment. As the application fails to satisfy the sequential test and is likely to have significant adverse impact on planned investment in Newcastle Town Centre, namely Ryecroft, it should be refused in accordance with paragraph 27 of the NPPF.

Policies and proposals in the Development Plan relevant to this recommendation on both applications:

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

Policy SP1 - Spatial Principles of Targeted Regeneration
Policy SP2 - Spatial Principles of Economic Development
Policy ASP1 - City Centre of Stoke-on-Trent Area Spatial Policy
Policy ASP3 - Stoke-on-Trent Inner Outer Core Area Spatial Policy
Policy ASP4 – Newcastle Town Centre Area Spatial Policy
Policy ASP5 – Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Other Material Considerations include:

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

Applicants Submission

The applications are supported by a number of documents as follows:-

- Transport Assessment
- Planning and Retail Statement
- Design and Access Statement

All these documents are available to view on Stoke City Council's website www.stoke.gov.uk using the City Council reference 58224/FUL

Background Papers

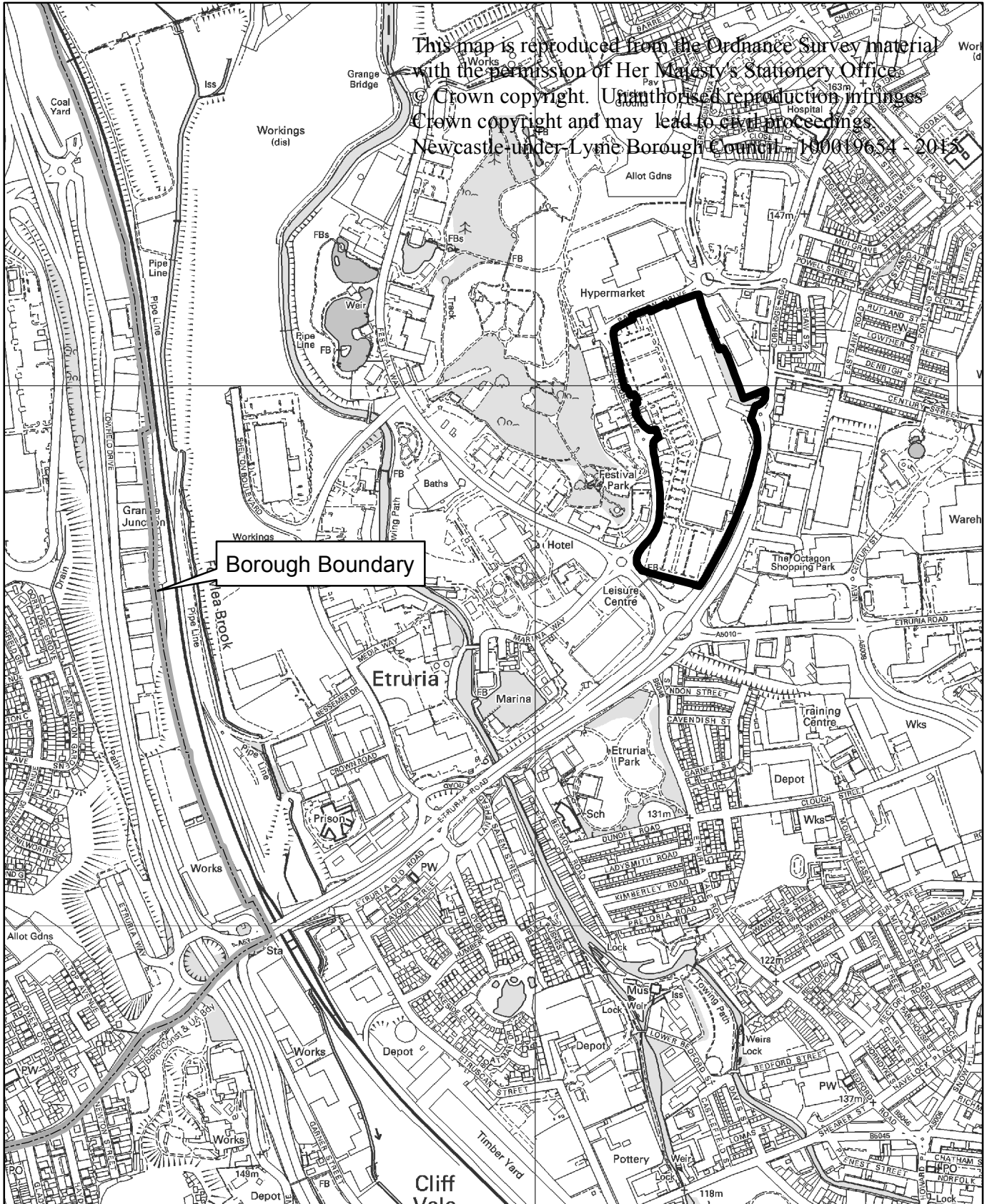
Planning Policy documents referred to
Planning files referred to

Date Report Prepared

12th May 2015.

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Units 1-7 Festival Retail Park, Ridgehouse Drive, Etruria - 348 220



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**LAND NORTH OF PEPPER STREET, KEELE
KEELE HOMES LIMITED**

15/00359/DOAHR

The applicant has made a formal application under Section 106BA of the 1990 Town and Country Planning Act to revise the affordable housing contribution requirement in the planning obligations entered into by them prior to the grant of outline planning permission (13/00970/OUT) for residential development (to a maximum of 100 dwellings) on the land north of Pepper Street, Keele.. The revision sought is a reduction in the level of affordable housing to be provided within the development from 15% of the total number of dwellings to 6%.

The 28 day determination period for this application expired on 21st May 2015 however the applicant has agreed to an extension of time for the determination of the application until 27th May.

RECOMMENDATION

Subject to your officers having established, by the application of information from indices to the key elements of the District Valuer's previous appraisal, the likely current position and being satisfied that his conclusion can still be sufficiently relied upon, the planning obligation associated with planning application 13/00970/OUT for residential development (to a maximum of 100 dwellings) be modified to reduce the requirement for the affordable housing contribution to 6% of the total number of dwellings constructed, 3% social rented and 3% shared equity for a period of 4 years after which it reverts to the original affordable housing obligation, such modification only relating to those dwellings completed within that period.

Reason for Recommendation

The applicant has submitted an application under section 106BA of the Town and Country Planning Act to review the affordable housing contribution secured by planning obligation for a residential development of the site at Pepper Street granted consent under application reference 13/00970/OUT.

The basis for the applicant's submission is that after an independent review of the applicant's additional evidence of the costs involved in the cut and fill element of the remediation of the spoil heap fire, the District Valuer advised that the developer profit would not be sufficient to allow for an affordable housing contribution at the level subsequently secured within the planning obligation. On this basis it is therefore considered that the current cost of building out the entire site (at today's prices) is not at a level that would enable a competitive return to a willing developer and a willing landowner as required by the national planning guidance in relation to viability.

Subject to your officers confirming, following the obtaining of indexation information, that they consider that the conclusions of the District Valuers October 2014 report can continue to be sufficiently relied upon it is considered that the affordable housing contribution of 15% of the total number of dwellings constructed, contained within the planning obligation dated 2nd April 2015 in respect of 13/00970/OUT, can no longer be justified, and it is recommended that the Planning Obligation is modified accordingly to reduce this requirement to 6% of the total number of dwellings. It is considered that a 4 year time limit should be imposed on this modification so that if the development is not completed in that time the original affordable housing obligation will apply to those parts of the scheme which have not been commenced.

Key Issues

The applicant has made a formal application under Section 106BA of the 1990 Town and Country Planning Act to reduce the affordable housing contribution requirement in the planning obligations entered into prior to the grant of to the previous planning permission for development of the site (13/00970/OUT). Section 106BA was introduced by Government through the Growth and Infrastructure Act, 2013 specifically to allow such a request to be made in a case where the applicant considers that the contribution makes the scheme unviable. The applicant's claim is that the

affordable housing obligation as currently agreed makes the scheme nonviable in current market conditions and that the only method of bringing this site forward is to reduce the affordable housing contribution to 6% of the total number of dwellings. This request is supported by information relating to the viability of the proposal.

The Government is keen to encourage development to come forward to promote construction and economic growth. The Growth and Infrastructure Act 2013 inserted Sections 106BA, BB and BC into the 1990 Town and Country Planning Act which introduce a new application and appeal procedure for the review of planning obligations on planning permissions which relate to the provision of affordable housing.

The National Planning Policy Framework paragraph 173 states: 'to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking in account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.'

The Government publication Section 106 Affordable Housing Requirements Review and Appeal gives guidance on the process for determining applications submitted under s106BA.

Paragraph 10 of the document states that 'The test for viability is that the evidence indicates that the current cost of building out the entire site (at today's prices) is at a level that would enable the developer to sell all the market units on the site (in today's market) at a rate of build out evidenced by the developer, and make a competitive return to a willing developer and a willing landowner'.

The applicant submitted a viability assessment (the 'Grasscroft' appraisal) prepared in November 2013 with the application for outline planning permission. The District Valuer was subsequently instructed by the Borough Council and submitted his own appraisal on 9th June 2014. Following further exchanges of information with the applicant, he then revised on 23rd July 2014 certain conclusions and in effect updated his report. At that time the District Valuer was not convinced that all of the costs and values identified by the applicant in the 'Grasscroft appraisal' were justified, in particular he considered that the costs identified within that appraisal for the cut and fill element of the remediation of the spoil heap fire were larger than he could accept based upon the information provided. His conclusion was that if 15% of on-site affordable housing was secured on site there would be £371,127 available for contributions towards the provision of education places and travel plan monitoring costs.

The Planning Committee accepted the advice received and at its meeting of 5th August 2014 resolved to grant planning permission subject to the applicant entering into planning obligations to secure, amongst other things, 15% affordable housing and a financial contribution totalling £371,127 towards schools, and travel plan monitoring.

Following the decision of the Planning Committee (but prior to the eventual completion on the 2nd April of the legal agreement with these obligations and the consequential issuing of the planning permission on the 13th April) the applicant provided further quotes as to the costs of the cut and fill element which were similar to the costs that Grasscroft had identified in their Viability Appraisal. On the basis of the evidence of the additional quotes the District Valuer accepted that costs were significantly higher than he had included in his assessment of viability (by in the region of around £325,000). He advised in correspondence to the Council dated 15th October 2014 that taking into account the additional costs the development could only viably support 6% affordable units, 3 of which being social rented and 3 shared ownership.

Although the guidance on these types of applications envisages the submission of a revised appraisal the circumstances here are somewhat unusual, with the DV already having provided further information superceding that which the LPA took into account in determining the application and setting out what the LPA considered was required. The critical question appears to be whether it is reasonable to now rely upon such advice, bearing in mind when it was provided. It is standard practice for the District Valuer to always caveat that their advice is valid for 3 months from its date, and indeed that even this is subject to market circumstances not changing, or further or better information coming to light, which would cause them to revise their opinion.

As to whether there are sufficient grounds to consider that a different conclusion *might* be reached on what level of affordable housing is now viable, your officer is aware that construction costs are likely to have risen since last October. Whilst no further advice has been taken from the District Valuer since the submission of this application, prior to the Committee the intention is to seek information on the key indices that are understood to be available and apply them to the District Valuer's previous appraisal – which should give a further signal as to whether the October 2014 District Valuer's appraisal can still be relied upon.

On this basis, it is at present recommended that the affordable housing contribution of 15% of the total number of dwellings constructed, contained within the planning obligation dated 2nd April 2015 in respect of 13/00970/OUT, can no longer be justified, and that the Planning Obligation is modified accordingly to reduce this requirement to 6% of the total number of dwellings.

Section 106BC of the Act ensures that if an Inspector modifies an affordable housing obligation on appeal, that modification is valid for 3 years. If the development is not completed in that time, the original affordable housing obligation will apply to those parts of the scheme which have not been commenced. This is to incentivise developers to build out as much of their scheme as possible within 3 years as they cannot secure the revised affordable housing requirement across the whole scheme if they have only partially commenced. The guidance set out in the DCLG document referred to below suggests that Local Planning Authorities may wish to make similar time-limited modifications or conditions when considering an application under Section 106BA. It is considered that a time limit should be applied to the modification as recommended. In this case, however, in recognition of the significant site preparation works and that this is an outline planning permission with no approval of reserved matters in place a more reasonable period would be 4 years. If the developer remains concerned about the viability at the end of the 4 years, they can seek to modify the agreement again through voluntary renegotiation or by a new application under S106BA.

Members might wish to note that the planning obligation also requires that a revised viability appraisal be undertaken and its conclusions then be applied, if the development has not substantially commenced within 18 months of the consent. That part of the obligation would not be affected by the applied for revision.

Relevant Material Considerations include:

National Planning Policy Framework (NPPF) (2012)
Planning Practice Guidance (PPG) (2014)
DCLG document 'Section 106 Affordable Housing Requirements Review and Appeal' (April 2013)

Views of Consultees

The views of the **Housing Strategy Officer** and **Keele Parish Council** have been sought and will be reported if available.

Applicant's/Agent's submission

In addition to a statement setting out the basis of the application and a plan identifying the site, the applicant has submitted the following:

- The original S106 Agreement and decision notice
- The Viability Appraisal submitted with the outline planning application
- The District Valuer's review of the appraisal received before the application was determined.
- Additional information on the costs involved in the work proposed to that contained with the Viability Appraisal and the District Valuer's response.
- Evidence that all signatories to the S106 have been notified of this application

Details of the application are available to view via the following link www.newcastle-staffs.gov.uk/planning/1500359DOAHR

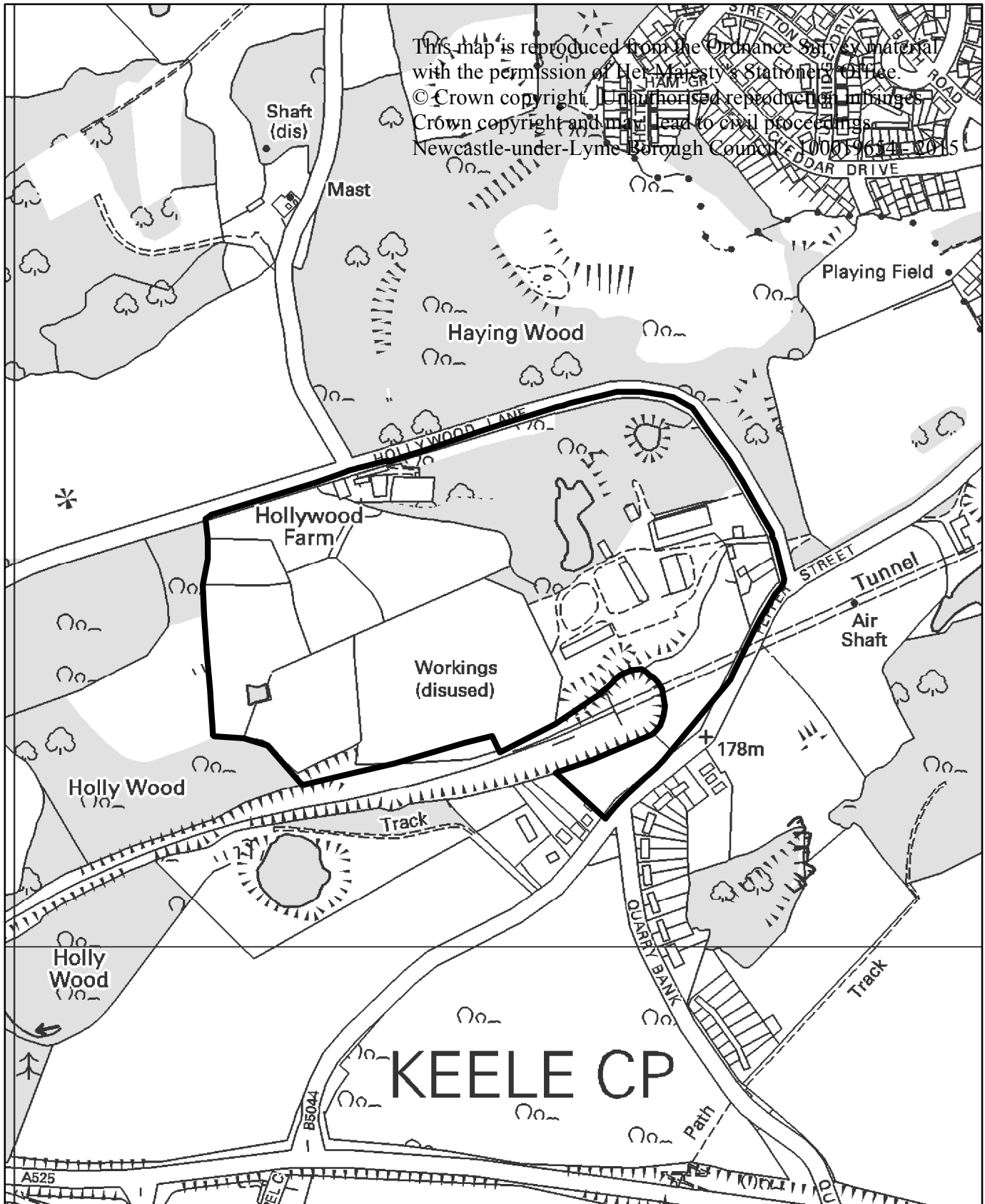
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

12th May 2015

Land North Of Pepper Street
Keele, 15/00359/DOAHR



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Newcastle-under-Lyme Borough Council: 100019614-0015



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**LAND SOUTH EAST OF HOLLOWAY FARM, HOLLOWAY LANE, ASTON
MS ELAINE BARNARD**

15/00173/FUL

The Application is for a change of use from a private to a commercial equestrian centre, extensions to an existing barn to provide 10 stables, the siting of a horse walker and the siting of a chalet dwelling on a concrete pad.

The application site, of approximately 0.2 hectares, is within an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map.

The application has been referred to the Planning Committee at the request of two Councillors due to concerns regarding highway safety, concerns that the proposed business is unsustainable, inappropriate and harmful to the character of the area, a dwelling on the land is not in keeping with the surrounding location, and concerns that the land could be used to support other activities.

A decision on the application was deferred at the meeting of the Committee held on 13th May until further information regarding hours of use, the size of vehicles and other information associated with the vehicular movements to and from the site, has been received.

The 8 week period for the determination of this application expired on 28th April 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following: -

- 1. Standard Time limit for commencement of development**
- 2. Approved plans**
- 3. Permission for the dwelling to be restricted to a period of 3 years only**
- 4. Occupation of the dwelling restricted to a person/persons employed full time by the equestrian business**
- 5. Details of materials**
- 6. Details of external artificial lighting**
- 7. Provision and retention of access, parking, servicing and turning areas**
- 8. Surfacing of access drive**
- 9. Gates to open away from the highway**
- 10. Provision of visibility splays**
- 11. Landscaping scheme**
- 12. Any other conditions considered necessary following the receipt of further details from the applicant**

Reason for Recommendation

Although 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, it is considered that the particular nature and demands of this equestrian business make it essential for a worker to be resident on the site in accordance with Paragraph 55 of the NPPF. It is not considered that there would be any significant adverse impact on the character or appearance of the area from any of the elements of the development and subject to conditions it is not considered that the proposed traffic movements would be so significant to cause severe harm to highway safety.

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

The application is for full planning permission for the following:

- The change of use from a private to commercial equestrian centre
- An extension to an existing barn to provide 10 stables
- The siting of a horse walker
- The siting of a chalet dwelling on a concrete pad

The site is located within an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map. It is considered that the main issues for consideration in the determination of this application are:

- Is the principle of development on this site acceptable?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the proposed development have any adverse impact upon highway safety?
- Would the proposed development have any adverse impact on residential amenity?
- Other issues

Is the principle of the development on this site acceptable?

The applicant has an established business known as 'Horsedrawn Occasions' which has been trading in Walsall for 14 years. It offers a range of horse-drawn services to clients throughout England that include weddings, special occasions, promotions and films and funerals. Due to a change in personal circumstances the applicant is no longer able to use her existing facilities and is proposing to relocate the existing equestrian business to this site. The business owns a total of 10 horses and offers a range of 14 different carriages with teams of two, four or six horses.

Paragraph 28 of the NPPF states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.

The operation of an equestrian business such as this is considered an appropriate rural business subject to detailed considerations which will be addressed below. The principle of the associated stable building and horse walker is also considered acceptable.

In terms of the principle of a new dwelling, 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. Aston 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.

This site is not within one of the identified Rural Service Centres nor is it within a village envelope, and the proposed dwelling 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 and in accordance with paragraph 49 and 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 examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

Whilst it is not considered that this is a sustainable location for a new dwelling, Paragraph 55 of the NPPF states that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.

PPS7: Sustainable Development in the Rural Area (2004) was replaced by the publication of the NPPF in 2012. However, the annex to PPS7 contained advice relating to occupational workers' dwellings and it is considered that the criteria contained within the annex remain an appropriate way to assess this issue. Although PPS7 did not specifically give advice on the considerations to be applied to dwellings required in connection with horse related establishments (it referred to other occupational dwellings), it did advise that similar tests as relevant to agricultural dwellings should be applied.

Regarding temporary dwellings, Annex A of PPS7 states that if a new dwelling is essential to support a new farming activity, whether on a newly-created agricultural unit or an established one, it should normally, for the first three years, be provided by a caravan, a wooden structure which can easily be dismantled, or other temporary accommodation.

PPS7 indicates that temporary agricultural dwellings should satisfy the following criteria:

- i) clear evidence of a firm intention and ability to develop the enterprise concerned;
- ii) functional need;
- iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
- iv) the functional need could not be fulfilled by another existing dwelling on the unit, or by any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- v) other normal planning requirements, e.g. on siting and access, are satisfied.

Firstly, turning to the functional need for a dwelling on the site. PPS7 states that a *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement may arise, for example, if workers are needed to be on hand day and night to provide essential care at short notice or to deal quickly with emergencies. It goes on to say that the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one.

The applicant's Supporting Statement is produced by Reading Agricultural Consultants (RAC). It is stated that an equestrian enterprise such as this requires 24-hour supervision for the following reasons:

- The close supervision, management and daily requirements of horses boxed in their stables;
- The strict exercise and training routine for individual horses;
- The strict training routine for pairs of horses working with the carriages and managing their temperament when doing road work;
- The provision of security for valuable horses from theft or malicious attack;

- Dealing with unforeseen emergencies including a horse with colic, damage to the stables from the horses or severe weather conditions.

It states that horses should be inspected regularly for signs of illness, distress or injury, and equine establishments have a duty of care to ensure the rapid diagnosis and treatment of injury, disease or infestation. It concludes that it is RAC's view that there was an essential need for an equestrian worker to be resident at the site in Walsall to ensure the welfare needs of the horses stabled there were not compromised and exactly the same essential needs will persist once the business is relocated to the new site. Workers living off site are unable to provide the same level of care and scrutiny.

The Supporting Statement highlights that the continued success of the applicant's business is absolutely dependent on the availability of on-site accommodation to provide the welfare needs of the horses stabled on site. Your Officer accepts that the particular nature and demands of this equestrian business as listed above make it essential for a worker to be resident on the site. It is not considered that this need could be adequately met through measures such as the installation of CCTV.

The applicant's agent states that an analysis of houses for sale have revealed no properties available to purchase in the immediate locality that would be suitable and available to meet the essential needs of the applicant's enterprise. Your Officer has conducted a similar search and accepts that there are no dwellings available sufficiently close to the site to fulfil the identified functional need.

For a temporary dwelling, there are other tests to be considered. In particular, clear evidence of a firm intention and ability to develop the enterprise concerned is required. The applicant clearly has ability and experience in this field and a number of her customers have written letters of support. She has had a mortgage offer agreed to purchase the site over a twelve year term.

As stated above, the business has been operating successfully for 14 years in Walsall and this demonstrates the sustainability of the business in that location. Business accounts have been made available to Officers and the applicant has also provided a cash-flow forecast for the year ending April 2015 which shows a positive balance carried forward each month taking account of income and expenditure.

However, given that the business will be relocated, the proposed dwelling would support what will be effectively a new business. However, a temporary consent for a dwelling would enable the Council to further test financial performance if or when a subsequent application is made for a permanent dwelling. It is considered therefore, that sufficient evidence has been provided to allow your Officers to conclude that criteria (i) to (iv) listed above have been met. The requirements of siting and access are considered below.

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

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. 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 site lies within an Area of Landscape Enhancement. Policy N20 of the Local Plan states that within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The application site has an existing steel framed building with a lean-to which currently comprises three stables and a tack room. Two extensions are proposed to the building. One would measure 4.57m x 8.08m in plan with a maximum height of 4.53m to form an additional bay to the barn which would be used to store the carriages and tack and the other would measure 9.14m x 18.29m with a maximum height of 4.84m to form ten stables. The materials would comprise red brickwork and metal cladding with a box profile sheeted roof, similar to the existing building. A horse walker with a diameter of 9.14m and a height of 2.5m is also proposed.

Whilst relatively large, the proposed stable building would be adjacent to existing buildings on the site and the materials would be similar to those of the existing buildings. Such buildings are typical of a rural location. The proposed dwelling would be a relatively small bungalow at just 48 square metres and it would be sited within a paddock adjacent to the existing and proposed stable buildings. It would however, be a temporary chalet style structure, the design of which would not be appropriate on a permanent basis. However, subject to a condition restricting the dwelling to a temporary period, it is not considered that there would be any significant adverse impact upon the character and appearance of the area.

Would the proposed development have any adverse impact upon highway safety?

A significant number of objections have been received on highway safety grounds. In particular, concerns have been expressed that the lanes are very narrow and horse-drawn carriages would create danger for other road users, particularly as there are no passing points for large vehicles.

In response to a request from the Highway Authority, the applicant's agent has submitted the following additional information:

- A plan showing the access drive at a width of 5m and the provision of achievable visibility splays
- Details of the existing and proposed traffic movements from the site showing an estimated increase of just fewer than 5 traffic movements per week
- Details of the amount and location of vehicles that will be parked at the site

On the basis of the additional information submitted, the Highway Authority has no objections to the proposal subject to the imposition of conditions. In particular they state that the level of traffic movements are appropriate and that the visibility splays are acceptable due to the low levels of existing traffic movements along Holloway Lane.

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The applicant's agent highlights that the site already has permission for private equestrian use. The applicant owns a single horse box and trailer which will leave and return no more than on a daily basis. The applicant has advised that only very infrequently (at present once a month) are a team of horses taken out with a carriage. The team is working 4 days per week away from the area. Representations have been received stating that the applicant has overstated the current vehicle movements from the site and has underestimated the proposed vehicle movements. Your Officer has no evidence that this is the case but even if it were, it is not considered that the proposed traffic movements would be so significant to cause severe harm to highway safety. Subject to conditions, it is not considered that an objection could be sustained on highway safety grounds.

Notwithstanding the above, further information has been requested from the applicant regarding the size of vehicles and other information associated with the vehicular movements to and from the site. This will be reported to Members once received.

Would the proposed development have any adverse impact on residential amenity?

Objections have been raised regarding the potential impact on the amenity of the occupiers of nearby residential properties. The nearest residential dwelling is more than 100m from the site and no adverse comments have been received from the Environmental Health Division subject to the

imposition of a condition regarding details of external artificial lighting. It is not considered that there would be any significant adverse impact on the amenity of any residential properties but notwithstanding this, further details have been requested from the applicant regarding the hours of operation of the business and this will be reported to Members once received.

Other matters

Representations have been received referring to a previous application for a stockman's dwelling on this site being refused. Outline planning permission was refused in 1995 for the erection of a dwelling for a stockman (Ref. 95/00120/OUT). The applicant bred miniature Shetland ponies but in that particular case it was considered that there was insufficient justification for a dwelling. Notwithstanding this, it is considered that in relation to the current application there is an essential need for a rural worker to live on site for the reasons outlined above.

Concerns have also been expressed stating that there is insufficient area on site to support 10 horses from a grazing and exercise perspective and that it does not meet British Horse Society guidelines. The guidance refers to a requirement for 0.4ha of grazing for each horse but that guidance relates to horses that are simply grazing on the land and does not relate to horses that are being kept or stabled on the land. The applicant's agent states that in this particular case, the reliance on available grazing land is not such an important consideration as the horse walker provides the necessary exercise area for the horse not being worked. In addition, feed is brought onto the land and the horses are provided with a very specific and managed diet.

A representation has been received stating that there is an on-going legal dispute regarding part of the site. A land ownership dispute is a civil matter that is not material to the consideration of the planning application and should planning permission be granted, it would be for the applicant to resolve any outstanding matter of land ownership before carrying out the development.

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 T16: Development – General Parking Requirements
Policy N17: Landscape Character – General Consideration
Policy N20: Area of Landscape Enhancement

Other Material Considerations include:

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

Supplementary Planning Guidance/Documents

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

Relevant Planning History

Nil

Views of Consultees

The **Highway Authority** has no objections subject to conditions regarding access, parking, servicing and turning areas, surfacing of the access, gates to open away from the highway and provision of visibility splays.

The **Environmental Health Division** has no objections subject to a condition regarding external artificial lighting.

Maer & Aston Parish Council considers that the proposed use would not be suitable on the narrow rural roads and states that further information regarding access, vehicle movements and storage of vehicles should be requested. Conditions should be imposed restricting the number and type of vehicles and controlling the hours for HGV traffic. The size of the plot appears insufficient. Conditions should be attached restricting the use of the chalet for the owners only, only one such building should be allowed on the site, the other buildings should be restricted to storage and stables, any lighting should be non-intrusive to the surrounding countryside and there should be no public events on site to include any motor vehicles, bikes or large groups of people requiring parking.

No comments have been received from **Loggerheads Parish Council**. Given that the period for comment has expired it must be assumed that they have no comments to make.

Representations

Approximately 146 letters of objection have been received. Objection is made on the following grounds:

- A previous application for a stockman's dwelling on this site was refused.
- The 4 horse stabling currently on the land is for private use and is not an equestrian centre.
- The proposed use is not for a commercial equestrian centre as stated, but a horse-drawn carriage business that is akin to a haulage business.
- Additional stabling for 10 horses and a building to house 14 vehicles would be over intensification of the use of this land.
- No information on the existing and proposed parking spaces or details of increased vehicle movements was given with the application.
- Equestrian centres have restrictions on the number of horses allowed on a given area of land. There is insufficient area on site to support 10 horses from a grazing and exercise perspective. It does not meet BHS guidelines.
- No provision has been made for the disposal of dirty water from the site.
- The lanes are exceptionally narrow and horse-drawn carriages would add danger to other road users, particularly as there are no passing points for large vehicles.
- There are no bus services in the area.
- The proposed development of this greenfield site is contrary to policies in the NPPF as it is in an isolated location and would not materially enhance or maintain the viability of a rural community and is an unsustainable location.
- The proposal will not materially add to the housing that is needed and is contrary to Policy H1 of the Local Plan and Policy ASP6 of the Core Spatial Strategy.
- There are no special circumstances and no essential need for a dwelling as there is no established business for that need, nor is the proposal in agriculture or forestry. The business could be located in a more sustainable location especially as grazing does not appear to be a pre-requisite.
- The proposal would set a precedent.
- There will be significant impact on amenity value for neighbours and locals.
- It has not been demonstrated that there is a lack of suitable and available alternative sites for this business.
- There is no indication of the operating hours or whether external lighting will be required.
- The lane is already heavily used by horse riders and farm vehicles and the proposed use will put people at risk.
- Badgers and bats are in close proximity.
- There are alternatives to living on site including CCTV.

- The applicant has overstated the current vehicle movements from the site and has underestimated the proposed vehicle movements.
- Since the dwelling would be tied to the business it would not contribute to the Council's 5 year housing supply and is not sustainable development.
- The development would be over-intensification of the use of the land.
- Removal of the existing embankment, high hedges and telegraph pole to improve visibility would adversely change the character of this area.
- Part of the land does not belong to the applicant and there is an ongoing legal dispute.

Four letters of support have been received. A summary of the comments made is as follows:

- The applicants are reliable, hardworking and professional people and the care of the horses is of paramount importance to them.
- Working horses need to be stabled most of the site to ensure they are clean and injury free. This requires a lot of unsociable hours preparing and caring for the horse late at night or very early in the morning. There is also the issue of security as there is thousands of pounds worth of equipment required.
- The business makes a valuable contribution to the local community and preserves traditional skills of horsemanship.
- Would continue to use them no matter where they are located.

Applicant's/Agent's submission

The application is accompanied by a Supporting Statement and information relating to traffic movements. These documents and the representations referred to above are available for inspection at the Guildhall and can be viewed on the website using the following link

www.newcastle-staffs.gov.uk/planning/1500173FUL

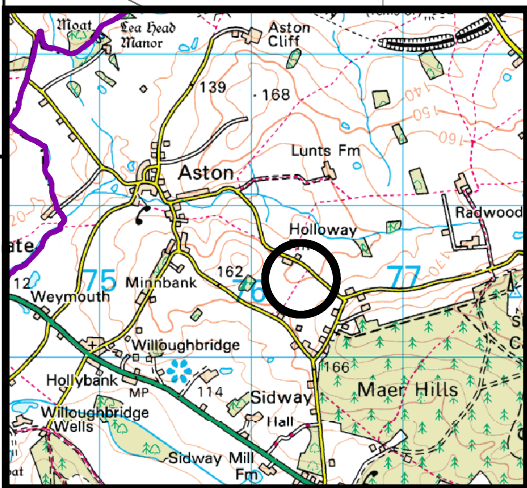
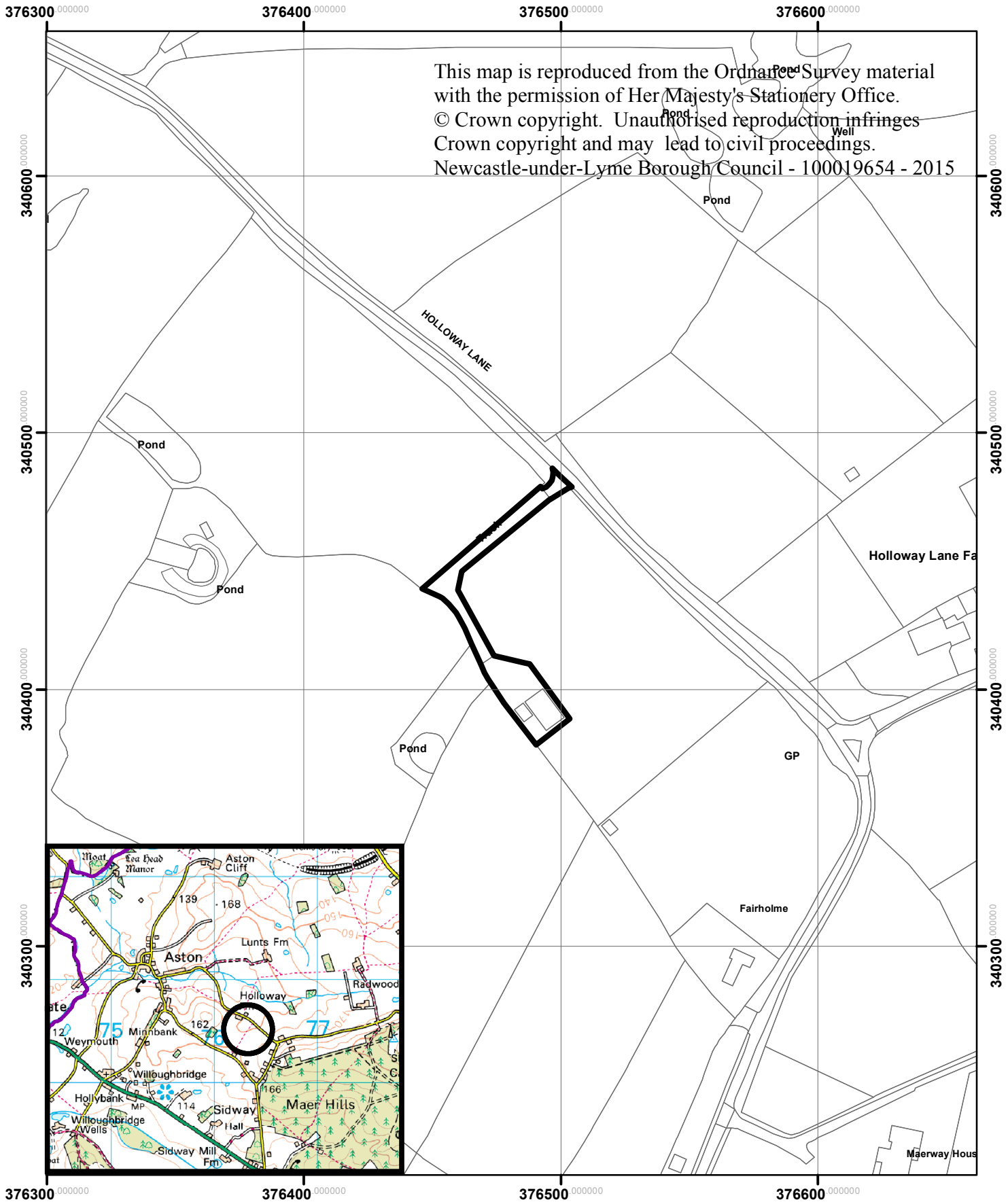
Background papers

Planning files referred to
 Planning Documents referred to

Date report prepared

14th May 2015

Land South East of Holloway Lane, Aston 15/00173/FUL



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PLAYGROUND AT ST EDMUNDS AVENUE, PORTHILL
NEWCASTLE BOROUGH COUNCIL

15/00307/DEEM3

The application is for outline planning permission for a residential development of up to 8 dwellings on a former playground area at St Edmunds Avenue, Porthill. All matters of detail (appearance, landscaping, layout, scale and access) are reserved for subsequent approval

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

The site is approximately 0.25 hectares in size.

The 8 week period for the determination of this application expires on the 27th May 2015.

RECOMMENDATION

Permit subject to the following conditions;

- 1. Standard time limits for submission of applications for approval of reserved matters and commencement of development;**
- 2. Approval of plans/ documents – site location plan and supporting information;**
- 3. Construction hours;**
- 4. Waste storage and collection arrangements;**
- 5. Contaminated land;**
- 6. Internal dwelling noise levels;**
- 7. Tree report recommendations;**
- 8. Any reserved matters application that involves landscaping shall include details of replacement trees and hard landscaping**

Reason for Recommendation

The site is located within a sustainable location and whilst only indicative details have been provided it has been demonstrated that a suitable housing development could be progressed on the site. The development is therefore in accordance with the guidance and requirements of the National Planning Policy Framework 2012.

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

Pre-application discussions were undertaken and it is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework. Therefore no amendments were required in this instance.

Key Issues

The application is for outline planning permission for eight semi-detached dwellings on a former playground site located off St Edmunds Avenue in Porthill. The site is within the urban area of Newcastle, as indicated on the Local Development Framework Proposals Map.

No matters of detail are being sought at this stage and therefore all matters reserved for subsequent approval. Therefore the main issues for consideration in this application are;

- The principle of the development
- The effect of the development on the form and character of the area
- Access and Highways implications
- Compliance with SPG 'Space Around Dwellings'

- Impact of trees

The principle of the development

The site is currently owned by the Borough Council, and is an area of informal open space. The site is considered to be a green field site.

Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and details that 1,000 of these should be within the Newcastle urban South and East area, which includes Porthill.

Policy SP1 of the CSS states 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. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

Whilst the site is greenfield and offers some informal recreation space for local residents, it is not designated as formal open space by the Borough Council.

The site is considered to represent a sustainable location for housing development and due to the Council being unable to demonstrate a five year supply of housing the presumption should be in favour of residential development unless any adverse impacts of the development significantly and demonstrably outweigh the benefits of the proposal (as required by para 14 and 49).

On the basis of all of the above, it is considered that the principle of residential development in this location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

The effect of the development on the form and character 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.

Policy CSP1 of the Core Strategy sets out the design criteria to which development will be assessed against which include that development positively contributes to an area's identity in terms of scale, density, layout, use of appropriate material for buildings surfaces and accesses.

All matters of detail are reserved for subsequent approval but an indicative layout plan has been submitted to support the application. The indicative layout shows four pairs of semi detached dwellings in a linear layout and fronting onto St Edmunds Avenue. This layout and density would be in keeping with the existing character of St Edmunds Avenue. The layout also indicates that trees will be planted along the frontage which would continue the tree lined character of St Edmunds Avenue which is an attractive characteristic of this street.

It is considered that an acceptable layout and appearance could be achieved that would provide sufficient private amenity space and landscaping for the site which would meet the requirements of the NPPF and development plan policies.

Access and Highways implications

The indicative layout plan provided with the application identifies 8 separate accesses off St Edmunds Avenue to access the proposed dwellings.

The Highway Authority has not responded to the consultation, however it is considered that the proposed access arrangements would be acceptable, and that two off road car parking spaces per dwelling would meet the maximum car parking standards for either two or three bedroom properties.

Notwithstanding the above, access is a matter for subsequent approval and details would be required as part of the reserved matters application. As such, no conditions are required at this stage should outline permission be granted.

Impact upon residential amenity

Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on privacy, daylight standards and environmental considerations. Adequate separation distance can be provided between the dwellings envisaged and existing properties – in line with the advice contained within the SPG. The anticipated level of private amenity space is considered generous and would provide an acceptable standard of living conditions for future occupiers.

The impact on trees

Policy N12 of the Local Plan seeks retention of trees which make a significant contribution to the character of an area. The three trees to the rear of the site are classified as category U trees, meaning that they are poor quality trees. Landscaping is a matter reserved for subsequent approval, which should include replacement tree planting. The conditions advised by the Councils Landscape Development Section are considered acceptable.

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)

Strategic Aim 16:	To eliminate poor quality development;
Policy SP1:	Spatial Principles of Targeted Regeneration
Policy ASP5:	Newcastle and Kidsgrove Urban Neighbourhood Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change

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 N12:	Development and the Protection of Trees
Policy C22:	Protection of community facilities

Other Material Considerations

Relevant National Policy Guidance:

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

Supplementary Planning Guidance

Space Around Dwellings (July 2004)

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

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

Relevant Planning History

Nil

Views of Consultees

The **Environmental Health Division** raises no objections subject to conditions for contaminated land, construction hours, internal dwelling noise levels and waste storage and collection arrangements

The **Staffordshire County Council Footpaths officer** has not responded to the consultation. Any comments received will be reported via a supplementary report.

The **Landscape and Development Section** raises no objections subject to conditions relating to the landscaping of the site to include replacement tree planting and hard surfacing. They also comment that clarification for proposals for the responsibility and management of land that will be difficult to access at the top of the gabion should be provided.

The **Education Authority** has no objections and requests no developer contributions as local schools are projected to cope with the demand likely to be created by this development

The **Highways Authority** has not responded to the consultation by the due date and as such it is assumed that they have no comments on the proposed development

Representations

5 representations have been received objecting to the proposal on the following grounds:

- Increased demand on local amenities
- Local primary schools and the high school are already over subscribed
- Loss of green, open space for local residents
- Land stability issues
- Loss of privacy, light and overlooking
- Existing car parking problems would be exacerbated
- Bat habitat will be affected
- Construction will cause disruption

Applicant/agent's submission

An indicative layout plan, along with a topographical survey, environmental assessment, noise assessment, arboricultural survey and report has been submitted.

These documents are available for inspection at the Guildhall and via the following link:
www.newcastle-staffs.gov.uk/planning/1500307DEEM3

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

7th May 2015

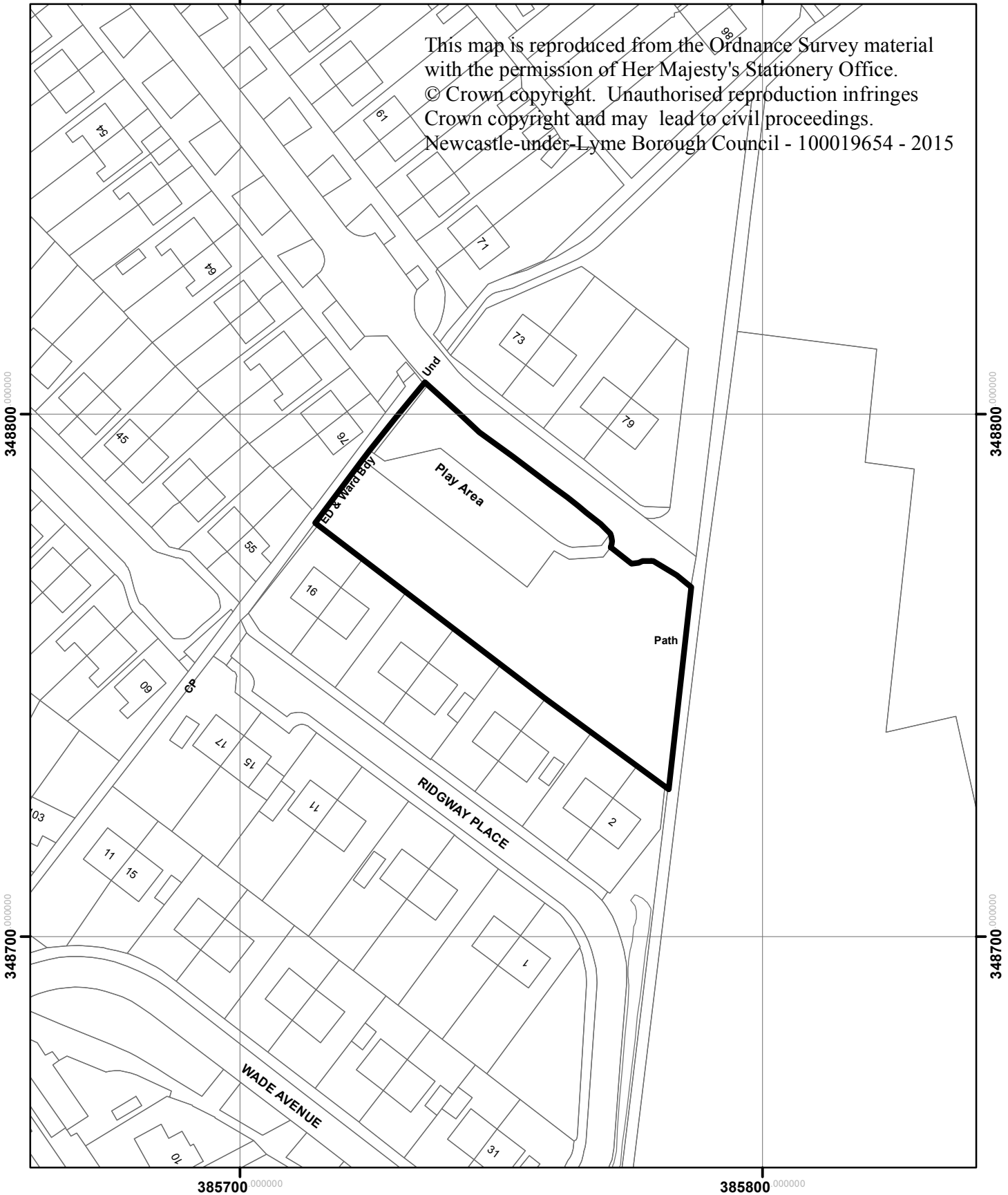
Playground, St Edmunds Avenue
Porthill
15/00307/DEEM3



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Newcastle-under-Lyme Borough Council - 100019654 - 2015



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THE BRAE, DEN LANE, WRINEHILL
MR RUSSELL ASHFORD

15/00269/FUL

The Application is for full planning permission for a replacement dwelling involving the demolition of the existing dwelling and the repositioning of the access.

The application site is located within the open countryside on land designated as being within the North Staffordshire Green Belt and an Area of Landscape Enhancement (policy N20), as indicated on the Local Development Framework Proposals Map.

The 8 week determination period expires on the 27th May 2015

RECOMMENDATION

PERMIT subject to conditions relating to:

- i) Standard time limit**
- ii) Approved plans**
- iii) Materials as per approved plans and application form**
- iv) Removal of permitted development rights for extensions, outbuildings and hardstandings**
- v) Soft landscaping scheme to include full details of boundary treatments**
- vi) Completion of access, parking and turning areas prior to occupation**
- vii) Access/ entrance walls have been provided to a maximum height of 900mm**
- viii) Surface water drainage interceptor rear of the highway**

Reason for Recommendation

The proposed replacement dwelling would be materially larger than the building it replaces and therefore constitutes inappropriate development in the Green Belt. However, the applicant could carry out extensions to the existing property that would result in a dwelling of a similar volume to that proposed and would be classed as appropriate development because such extensions would not be classed as disproportionate additions. The proposed dwelling would have no greater impact on the openness of the Green Belt than would the existing dwelling if extended. This is a fall-back position.

The proposed replacement dwelling represents a good standard of design which takes advantage of the site characteristics which minimises its impact on the openness on the Green Belt. The impact on visual amenity, character and quality of the landscape, trees and highways safety would also be minimal. There would also be no significant and harmful impact to neighbouring residential amenity levels in terms of visual intrusion, overlooking or loss of light.

In light of the fall-back and that the development is in other respects acceptable development it is considered that very special circumstance exist that justify approval of planning permission subject to the removal of permitted development rights and conditions.

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

Officers have held pre application discussions to address any significant issues of the development proposal and the application is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

The application is for full planning permission for a replacement dwelling involving the demolition of the existing dwelling and the repositioning of the access.

The application site is located within the open countryside on land designated as being within the North Staffordshire Green Belt and an Area of Landscape Enhancement (policy N20), as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of the development are:

- Is the proposal appropriate development within the Green Belt?
- Design of the proposals and the impact on the area of landscape maintenance,
- The impact on the residential amenity of neighbouring occupiers,
- The impact on highways safety,
- The impact on trees, and
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

Is the proposal appropriate development within the Green Belt?

Paragraph 79 of the recently published NPPF details that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

The NPPF further details in paragraph 89 that local planning authorities should regard new buildings within the Green Belt as inappropriate. Exceptions to this include the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.

The proposal would replace the existing brick built detached bungalow and whilst it would be in the same use it would be materially larger than the dwelling it is proposed to replace. It is therefore inappropriate development within the Green Belt and should not be approved except in very special circumstances. This will be addressed below.

Design of the proposals and the impact on the area of landscape enhancement

The NPPF details in paragraph 60 that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however proper to seek to promote or reinforce local distinctiveness. Furthermore, in paragraph 63 it also indicates that great weight should be given to outstanding or innovative designs.

The existing property occupies a spacious plot that is slightly elevated above Den Lane. The existing dwelling has limited design merit with no outstanding character or particular features.

The area has a range of size and style of properties with the size of the proposed dwelling being dictated by the Green Belt policy issues.

The proposed dwelling would be viewed from Den Lane and is considered to represent a conventional design which utilises glazing features to enhance its appearance. The proposed materials are considered of good quality that would also enhance the appearance of the proposal.

The repositioning of the access is likely to result in the loss of trees and shrubbery on the front boundary. It is therefore considered necessary to secure a soft landscaping scheme encouraging mature planting on the front and side (east) boundary.

In summary the proposed replacement dwelling, whilst larger, would be an improvement within the landscape which would comply with policy N20 of the Local Plan and the general design requirements outlined in the NPPF. It is therefore considered acceptable.

The impact on the residential amenity of neighbouring occupiers

As discussed the property occupies a spacious plot. Principle windows would not directly face neighbouring residential properties nor would the development result in any significant loss of light or

result in an overbearing impact to neighbouring principal windows. The proposal would also comply with the Councils SPG.

The impact on highways safety

The repositioned access is considered acceptable and it is noted that the Highway Authority has raised no objections subject to conditions which are considered acceptable with adequate off street car parking and turning space being provided.

The impact on trees

The front boundary of the site has a number of trees and shrubs and the proposal includes the repositioning of the existing access. This will result in a number of trees and shrubs being lost.

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree unless the need for development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting and design. It also states that where trees are to be lost through development then replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

The Council's Landscape Section has requested an Arboricultural Impact Assessment (AIA) to be submitted before comments can be made. No trees within the site are covered by a tree preservation order and none can be considered to be visually significant. The visual impact arising from loss of trees can be mitigated through mature tree planting which would improve the appearance of the site and this could be secured through a condition of permission. In light of this it is not considered that an AIA can be justified.

Do the required very special circumstances exist (to justify inappropriate development)?

The NPPF details that very special circumstances (to justify inappropriate development) will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The existing property has full permitted development rights and so certain extensions, alterations and outbuildings can be carried out without planning permission. These could, potentially, include a single storey rear extension of up to 8 metres from the original rear elevation. A large single storey side extension and a large outbuilding could also be constructed (depending on its size and location) without planning permission. However, even if planning permission was required the Council could approve extensions that would not result in a disproportionate addition over and above the size of the original dwelling. This is a fall back position that could be exercised by the applicant and needs to be considered in the determination of this application.

In this instance the applicant has calculated that the original dwelling (excluding any extensions post 1948) has a volume of 290m³. The proposed dwelling would have a volume of 524m³ cubic metres which would result in a volume increase of approximately 83%.

The applicant has detailed that a flat roof attached garage will be removed to accommodate the proposal. Whilst the outbuildings cannot be classed as part of the original dwelling it is acknowledged that they do have an impact on the openness of the Green Belt at present and as such it is considered that they could, in this case, be included within the calculations. The applicant details that these amount to a volume of 64 cubic metres.

Whilst a 50% increase of the original dwelling is not written within policy it has been accepted that this is unlikely to be considered to be a disproportionate addition to the original. A 50% increase in this instance equates to a volume of 435m³ plus the 64m³ which would allow the volume of the replacement dwelling to be 499m³. The volume of the proposed dwelling (524 m³) would therefore be 25 cubic metres over the general accepted amount.

A dwelling with a volume of 524m³ is not considered excessive within a plot of this size and the proposal is of a much higher design standard than the one it replaces.

It is considered that the above represents a likely fall back position and the harm that the size of the replacement dwelling would have on the openness of the Green Belt would be no greater but the design would be considerably better and these would amount to the very special circumstances required to justify the proposed development in this instance, this being in accordance with the requirements of the NPPF.

Given the nature of the very special circumstances demonstrated it is necessary and appropriate to remove permitted development rights for further extensions, outbuildings and hardstandings.

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)

Strategic Aim 16:	To eliminate poor quality development;
Policy SP1:	Spatial Principles of Targeted Regeneration
Policy ASP6:	Rural Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change

Newcastle under Lyme Local Plan 2011 (LP)

Policy S3: Development in the Green Belt
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 N20: Area of Landscape Enhancement

Other material considerations include:

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

Supplementary Planning Guidance/Documents

Space Around Dwellings (July 2004)

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

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

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

Relevant Planning History

None relevant

Views of Consultees

The **Environmental Health Division** raises no objections.

The **Landscape and Development Section** have detailed the proposed alteration to the position of the access and the construction of the foundations to the 2 metre high boundary will have an impact on trees on this site and have therefore requested an Arboricultural Impact Assessment.

The **Highways Authority** raise no objections subject to conditions restricting the height of entrance walls, the access and parking have been completed prior to occupation and surface water drainage information has been submitted for approval.

Betley, Balterley & Wrinehill Parish Council raises no objections in principle but the LPA should ensure that the works are in accordance with Green Belt policy. Reference is also made to two properties that have been demolished with little or no work carried out which has an adverse impact on the Green Belt.

Representations

No letters of representation have been received.

Applicant/agent's submission

A set of application plans have been submitted along with volume calculations.

These documents and the representations referred to above are available for inspection at the Guildhall and can be viewed on the website using the following link

www.newcastle-staffs.gov.uk/planning/1500269FUL

Background Papers

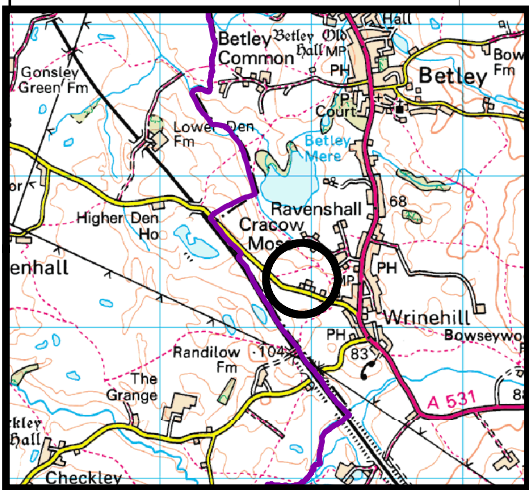
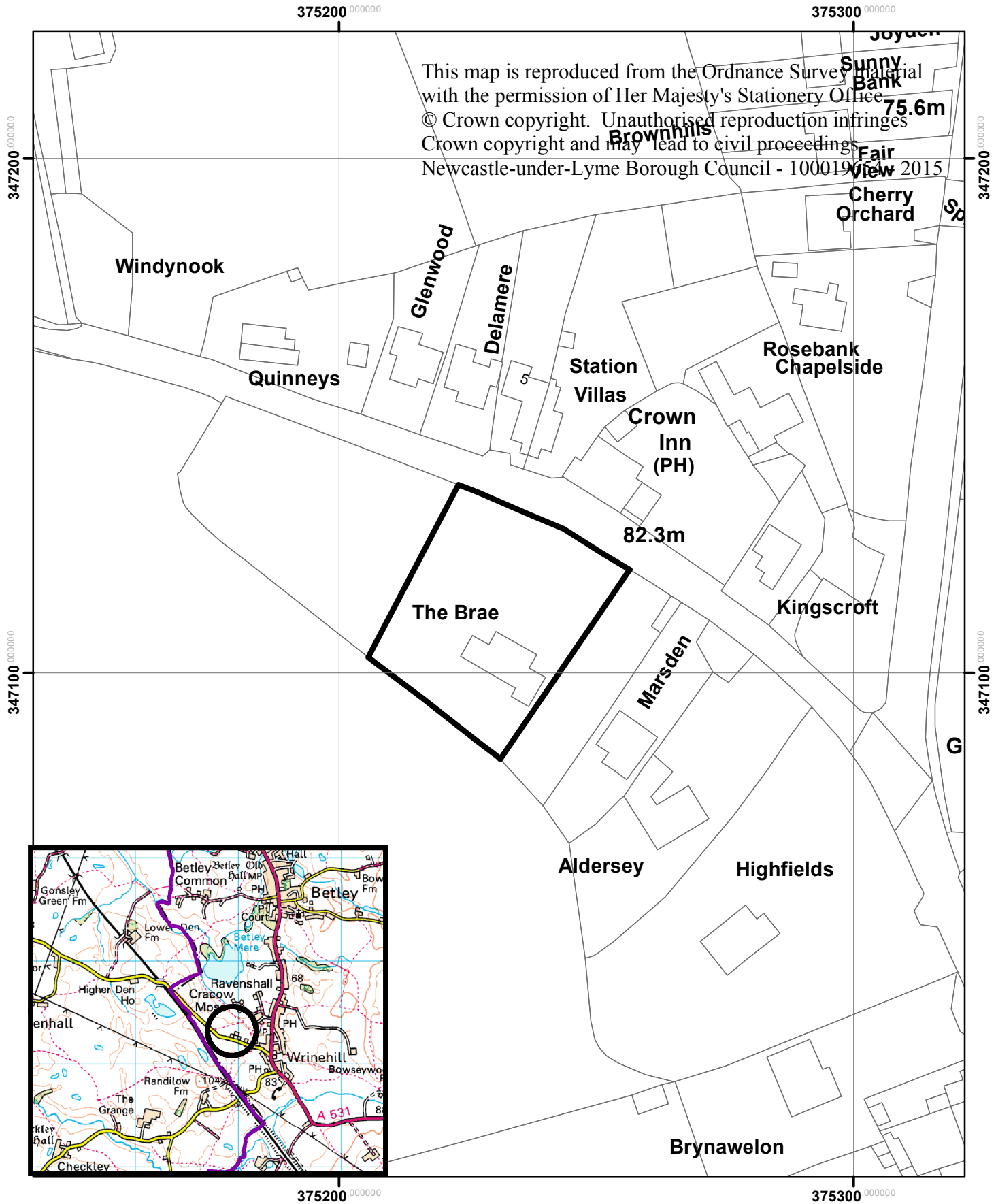
Planning files referred to
Planning Documents referred to

Date report prepared

07 May 2015

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The Brae, Den Lane, Wrinehill
15/00269/FUL



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Confirmation of Tree Preservation Order

**LAND NORTH OF LWC DRINKS LTD
WEST AVENUE
KIDSGROVE**

Tree Preservation Order No 166 (2015)

Town & Country Planning Act 1990

Town & Country Planning (Tree Protection) (England) Regulations 2012

The Provisional Order protects 5 groups of trees and 1 woodland situated on land on the eastern side of Western Avenue, Kidsgrove, at its most southern end. The site is a vacant area lying at the north of the industrial unit currently occupied by LWC Drinks Ltd.

The Provisional Order was made to safeguard the longer term visual amenity that the trees provide.

The Order was made using delegated powers on the 25th of February 2015. Approval is sought for the Order to be confirmed as made.

The 6 month period for this Order expires on 26th August 2015

RECOMMENDATION

That Tree Preservation Order No 166 (2015), Land north of LWC Drinks Ltd, West Avenue Kidsgrove, be confirmed as made and that the owners of the site be informed accordingly.

Reasons for Recommendation

Your officers are of the opinion that the longer-term visual amenity of the trees is best secured by the making of a Tree Preservation Order after an enquiry was made as to the status of the trees which gave rise to concern that they could be in danger of being felled to remove them as an obstacle to the development of the site. The site is currently for sale.

Your officers are of the opinion that the trees are generally healthy at present and are of sufficient amenity value to merit the making of a Tree Preservation Order. They are considered to be appropriate species for the locality and provide public amenity value due to their form and visibility from public locations.

Representations

No representations have been received.

Issues

The trees are deciduous and situated primarily towards the boundaries of the site. They are mature and clearly visible from West Avenue.

The trees are a significant feature to the locality and provide an important contribution to the area. Their loss would have a detrimental effect on the visual amenity, not only of the site but also to the locality.

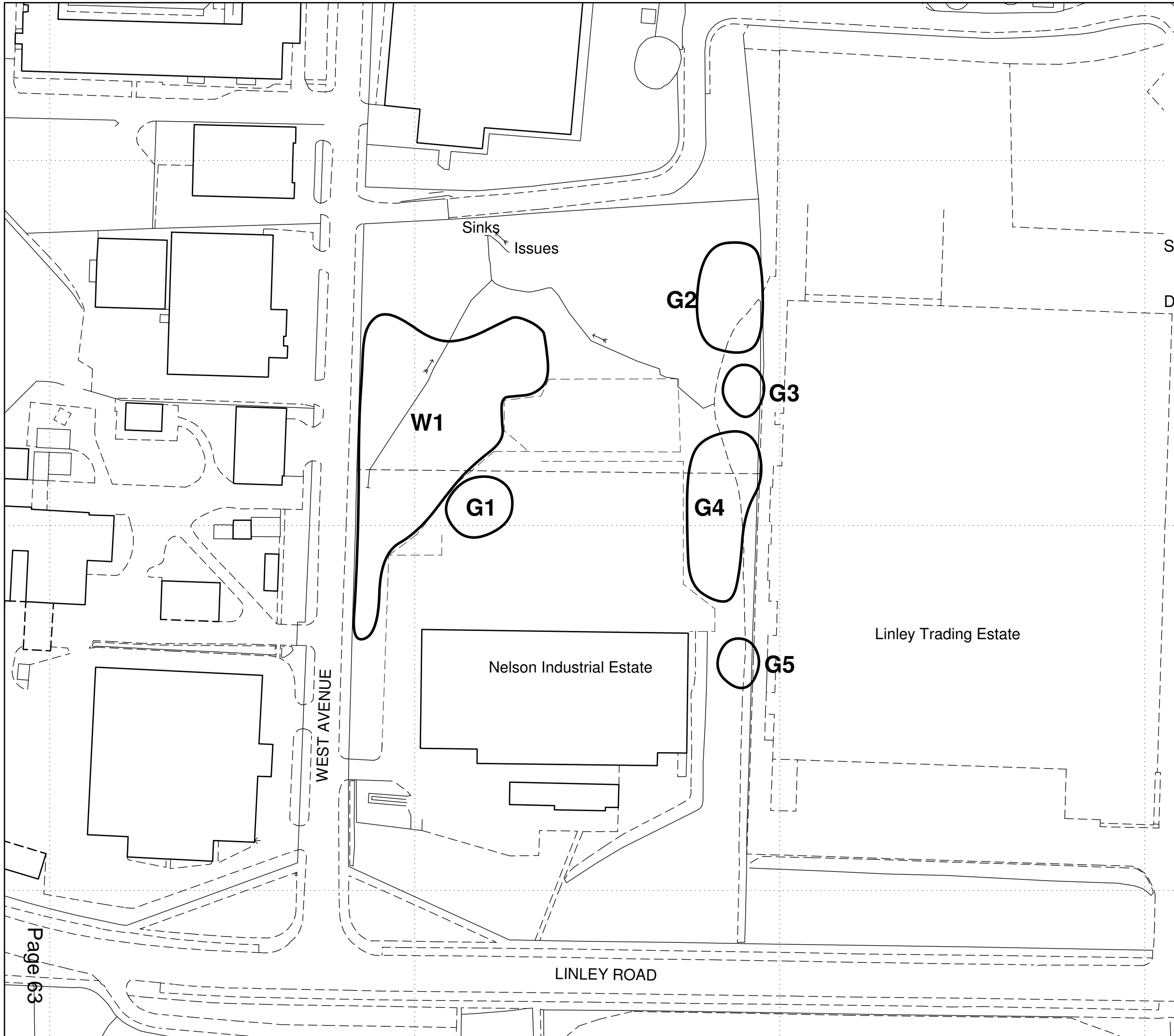
The site is currently for sale and on 12th February 2015 a tree status enquiry was received by the council. This gave rise to concern that the trees could be unnecessarily felled to remove them as an obstacle to development. There has been a loss of trees in the area in recent years as a result of development.

Your officers inspected all of the trees on the site in February 2015 and carried out a TPO assessment, and found 5 groups of trees and one small woodland area on the site to be worthy of an Order. They are considered to be in reasonable health, visually important and an amenity to the locality, with the prospect of continuing to provide this for many years, and that they should be protected. The trees included are the more prominent and established mature trees growing on the site and younger less significant trees of less visual amenity have not been included. The Order was made and served on 25th February 2015 in order to protect the long term well-being of the trees.

The making of the Order will not prevent the owner from carrying out good management of the trees nor improving or developing the site, and it will give the Council the opportunity to control the works and prevent unnecessary cutting down, lopping, topping, uprooting, wilful damage or wilful destruction. The owner will be able to apply for permission to carry out maintenance work to the trees which is necessary to safely manage them.

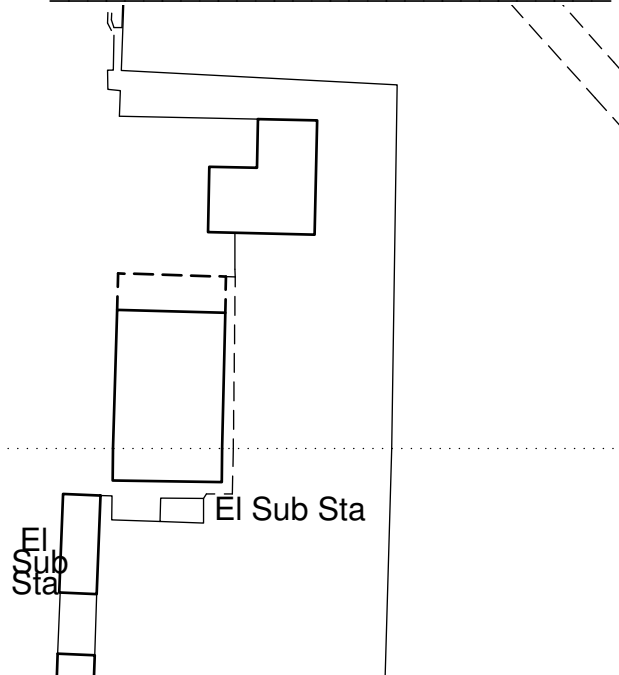
Date report prepared

29 April 2015



Signed _____

Date _____



Dave Adams
 Executive Director Operational Services
 Civic Offices, Merrial Street
 Newcastle, Staffordshire. ST5 2AG

TITLE:
**Land north of LWC Drinks Ltd
 West Avenue
 Kidsgrove**

DESCRIPTION:
**Tree Preservation Order
 No 166 (2015)**

DRAWN BY:
PJS

SCALE:
1:1000

DATE:
February 2015

DRAWING NO.
TPO 166

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REPORT TO DEVELOPMENT MANAGEMENT PLANNING COMMITTEE

Local Finance Considerations in the determination of planning applications

Purpose of the Report

To advise Members as to when local finance considerations are a material consideration and the weight that can be given to such matters in the determination of planning applications – in response actions agreed by Cabinet following the Planning Peer Review.

Recommendations

That Planning Committee note that reports on applications, whether to the Committee or to the decision taker where a decisions being made under delegated powers will not include a section on local finance considerations unless:-

- (a) The applicant, or third parties, refer in their submissions to New Homes Bonus (NHB), non-domestic domestic rate, Council tax or any other local finance considerations in support of the application, and the weight that can be given will then be addressed within the key issues or discussion section of the report; or**
- (b) Such a time arises when NHB, non-domestic domestic rate or Council tax is spent by the Council in a manner which is directly connected to the development and contributes towards making that development acceptable.**

1. Background

The Planning Peer Review Team gave a recommendation to the Council to:

“5. Develop systematic links between financial planning and local plan development / monitoring to help focus on costs and income in relation to non-national domestic rate, council tax and new homes bonus .”

In giving their feedback the Review Team commented as follows

“while the planning service does support growth and investment in the borough, the Council now more fully appreciates that it needs to bring the service ‘front and centre’ to deliver its corporate priority of ‘delivering opportunity’. The borough needs more homes and more jobs to meet local demand. Critically, development is required to fund infrastructure needs such as roads, drainage and services. And without new development, locally generated income in the form of council tax, business rates or new homes bonus will not replace diminishing government grant.”

and that there should be an improved understanding between planning and finance including of the new homes bonus

Cabinet on the 12th November 2014 in resolving to agree an Action Plan in response to the Planning Peer Review Team’s report agreed to the following action - to include within hte review of decision reports structure a specific section on finance considerations and weight to be given to them.

2. Legislation

Section 70 of the Town and Country Planning Act 1990 sets out general considerations in the determination of applications and at (2), following amendments through the Localism Act 2011, it now states the following:

*"In dealing with ... an application the authority shall have regard to
(a) the provisions of the development plan, as far as material to the application,
(b) any local finance considerations, as far as material to the application, and
(c) any other material considerations."*

Section 70 (4) of the Act defines a local finance considerations as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by Minister of the Crown, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

This includes the New Homes Bonus (NHB)..

3. Is the receipt of New Homes Bonus a material consideration that can be given any significant weight in the determination of applications for residential development?

In the determination of applications the Planning Authority needs to ensure that it has regard to only material considerations and disregards immaterial considerations. The law makes a clear distinction between the question of whether something is a material consideration and the weight which it is to be given. Whether a particular consideration is material will depend upon the circumstances of the case and is ultimately a decision for the courts. Provided it has regard to all material considerations, it is for the decision taker (the Council) to decide what weight is to be given to the material considerations in each case.

Guidance set out in Planning Practice Guidance (PPG) (previously known as National Planning Practice Guidance) at paragraph 11 of the section on 'Determining a Planning Application' indicates that whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. The PPG goes on to advise that it would not be appropriate to make a decision on the potential for the development to raise money for a local authority or other Government body. It concludes by advising that in deciding a planning application where a local finance consideration is material, decision takers need to ensure that the reasons supporting the decision clearly state how the consideration has been taken into account and its connection to the development. The guidance suggests that even where anticipated NHB payments are not a material consideration in making planning decisions, they can be noted for information in committee reports on applications for housing, but where this is done, care will be required not to imply that Bonus payments are relevant to the decision before the Committee

The Council has not put in place a Community Infrastructure Levy (CIL) Charging Schedule so the only potential "local financial consideration" for the Borough is NHB

Most of the projected NHB that the Council expects to receive for 2015/16 will following approval of the budget by Council on the 25th February 2015, be spent on the revenue budget (£1.255 m) with a lesser proportion (£545K) being spent on the Housing Capital Programme. Of that £545K the intention is to spend £20k on Empty Homes, £100k on emergency assistance with health and safety issues in the homes, £40K to match fund accredited landlord improvements, 75K for home loans and £300k for Disabled Facilities Grants. That expenditure is not related to the residential developments that have generated the Bonus. Therefore at this point in time it could not be said that the receipt of such money is a material consideration that can be given any weight in the determination of a planning application in the Borough.

A number of appeal decisions that have made reference to the NHB have not given any significant weight to such a local finance consideration in the absence of a direct connection between the payment of the NHB and the proposed development. Such appeal decisions include the recent Gateway Avenue, Baldwins Gate appeal where the Inspector listed NHB as an economic benefit but in drawing what he terms the planning balance and setting out his overall conclusions NHB did not factor in his final conclusion.

4. Conclusion

In consideration of the guidance in PPG and in recognition of the decision of the Council to spend NHB primarily on disabled facilities grants rather on matters that are directly connected to the proposed development in at this point in time little weight can be given to such matters. Whilst the Action Log that was agreed by Cabinet following the Peer Review recommendations anticipated that it would be appropriate to have a local finance consideration section within all reports it is considered that such a section would not assist in reaching a decision, in that even if care were taken not to imply that such payments were relevant to the decision, members might overlook such advice. The introduction of such a section which would always say that no significant weight can be given to such local finance considerations furthermore would, arguably, be contrary to one of the other actions arising from the Peer Review relating to the need to review committee reports, particularly for effectiveness and use of Plain English.

It will, however, be necessary to address within reports NHB and other local finance considerations if the applicant seeks to refer to such matters in support of the proposed development.

Date report prepared 15th May 2015

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REPORT TO THE PLANNING COMMITTEE 26TH MAY 2015

ANNUAL REPORT ON PLANNING AND RELATED APPEALS

1ST APRIL 2014 – 31ST MARCH 2015

Introduction

1. Appeal decisions are reported regularly to the Planning Committee, as are decisions on the award of costs in appeal proceedings. In addition, an annual report on planning and related appeals is produced for consideration by Members, intended to identify general issues relating to the Local Planning Authority's (LPA's) appeal performance, and to encourage an approach that reflects upon and learns from such appeals.

Appeal Performance

2. Appeals can be made both against the refusal of permission, but also against conditions attached to permissions. There are many cases where following a refusal of an application, discussions are held with an applicant and as a result the applicant decides either to no longer pursue the proposal or to submit revised proposals. In this way difficulties can be more effectively, quickly and cheaply resolved. Your officers would always seek to encourage such discussions. As advised in the National Planning Practice Guidance (2014), appeals should only be made when all else has failed.
3. An applicant has currently in most cases up to 6 months to lodge an appeal (from receipt of the decision notice), and given the time some appeals take to be determined (particularly as there is currently a significant backlog at the Planning Inspectorate), there is often a significant period of time between the LPA's original decision and the appeal decision. For householder applications, the time limit to appeal is 12 weeks and the time period for submitting an appeal where the same or substantially the same development is subject to an Enforcement Notice is just 28 days.
4. Appeals can also be made within a specified time against Enforcement Notices on various specific grounds. If an appeal is lodged the Notice does not come into effect until the appeal has been determined. If no appeal is lodged the Notice comes into effect.
5. During the 12-month period from April 2014 to March 2015, 19 appeals against decisions by the Borough Council as the LPA were determined. A list of the appeal decisions is attached as Appendix 1. This compares with 23 for the previous year 2013/14. Of the 19 appeals one concerned an Enforcement Notice and one a decision on an application for a certificate of lawfulness
6. The Government has recently published data on the performance of local planning authorities against published criteria for assessing under-performance under Section 62B of the Town and Country Planning Act 1990. Performance in relation to Major appeals is one of the two criteria upon which the Government is basing designation of under-performing Local Planning Authorities, the other measure being based on the speed with which Major applications are dealt with. The threshold for designation is currently 20% or more of an authority's decisions on applications for Major development made during the assessment period being overturned at appeal.

The measure used in each case for assessing the quality of decisions is the percentage of decisions on applications of that type that have been overturned at appeal once nine months have elapsed following the end of the assessment period. The nine months lag is used to enable the majority of decisions on planning applications made during the 24

month period to be followed through to subsequent appeals that may be lodged and for the outcome of those appeals to be known.

7. In relation to Major planning applications, the Borough is ranked 222nd out of 342 authorities with 3% of decisions overturned at appeal (with a low ranking representing “good” performance). Clearly this is significantly below the 20% designation threshold however it is important to note that the figures predate two appeals concerning Major development that have since been allowed (Gateway Avenue and Watermills Road) and a decision on a third is expected in July this year (The Hawthorns, Keele). The next accounting period will include these decisions and potentially the St. Quentin Major decision against which an appeal has now been lodged. The number of Major applications determined per annum by this authority is low (although above the threshold of 10, below which LPAs cannot be considered for designation) and therefore just one or two appeal decisions can make a significant difference in the figures. Table 1 below shows the performance of all the Staffordshire districts and Stoke-on-Trent.

Table 1

Planning Authority	Ranking	% major decisions overturned at appeal
Cannock Chase	15 th	0
Stoke-on-Trent	74 th	0
Stafford	151 st	2
Newcastle-under-Lyme	222 nd	3
South Staffordshire	223 rd	3
East Staffordshire	234 th	3
Staffordshire Moorlands	332 nd	13
Lichfield	335 th	13

8. In relation to minor and other developments, the Borough is ranked slightly lower at 285th with 2% of decisions overturned at appeal. Table 2 below shows how this compares to the other Staffordshire districts and Stoke-on-Trent.

Table 2

Planning Authority	Ranking	% minor and other decisions overturned at appeal
Stoke-on-Trent	57 th	1
Cannock Chase	94 th	1
East Staffordshire	106 th	1
Lichfield	136 th	1
South Staffordshire	271 st	1
Newcastle-under-Lyme	275 th	2
Stafford	285 th	2
Staffordshire Moorlands	301 st	2

9. In 2014/15, of the 19 appeals that were determined, 47% were dismissed and 53% were allowed. If an appeal is allowed it is in effect “lost” by the Council. If an appeal is allowed, that is a judgement, normally by the Inspector appointed by the Secretary of State to determine the appeal, that the Council’s case has been found wanting.
10. The Council has not performed as well over the most recent 12-month period as in the previous year (2013/14) when only 35% of appeals were allowed. In the 12 months prior to that however (2012/13) 69% of appeals were allowed. Performance has varied quite considerably therefore but given the relatively low number of appeal decisions received each year, just one or two decisions can make a significant difference in the figures.

11. Given that the number of decisions received in the last year has been so low, the cumulative figure for the last 3 years has been assessed. During the 3 year period of April 2012 to March 2015, a total of 55 appeal decisions have been received. Of those 55 decisions 49% were allowed. This figure is high (the reported national average being 36%) and therefore it is important to try and reflect upon and learn from the appeal decisions that have been received.
12. Table 3 below, looks at the different development types of the appeals received in 2014/15. All planning and related applications, and appeals, are categorised by development type. For dwellings, a Major development is where the number of dwellings to be constructed is 10 or more. Where the number of dwellings to be constructed is not known, any residential development with a site area of more than 0.5 hectares is categorised as a Major development. For all other uses a Major development is one where the floorspace to be built is 1000 square metres or more, or where the site area is 1 hectare or more. Applications for Minor development are those which are not for Major development although within the "Other" category are domestic extensions, changes of use, advertisements, listed building consent applications and similar. In addition, there are those appeals that relate to Enforcement Notices. These are not categorised by development type.

Table 3

Development Types	Number Allowed	% Allowed	Number Dismissed	% Dismissed
"Major" Appeals	2	100	0	0
"Minor" Appeals	6	46	7	54
"Other" Appeals	1	33	2	67
"Enforcement" Appeals	1	100	0	0
Total appeals	10	53	9	47

13. Unlike in previous years, where the number of householder appeals have been relatively high, there has been just one such appeal during the last 12 months and that was dismissed. A significant proportion of the appeals determined (53%) relate to Minor dwellings proposals and of those 10 appeals, 50% were allowed. The 5 Minor dwellings appeals that have been allowed are as follows:
- Land between 82 & 88 Harriseahead Lane, Harriseahead
 - Grange Farm, School Lane, Onneley
 - Moss House Farm, Audley
 - Land adj. 48, High Street, The Rookery
 - Land off Slacken Lane, Kidsgrove
14. In the cases of Harriseahead Lane and High Street, The Rookery, both of which are in the Green Belt, the Inspectors concluded that the development proposed was appropriate as in both cases it involved limited infilling in villages (a form of appropriate development that was in effect created by the NPPF). Reflecting upon these decisions, in determining future infill housing applications beyond village envelopes, the key consideration needs to be the context of the site itself with less focus being placed on whether the site is located within the village envelope as defined within the development plan. In relation to both Grange Farm and Moss House Farm, although the Inspector agreed with your officers that neither site is in a sustainable location, weight was given to the fact that in each case the scheme would lead to some enhancement to the immediate setting of the building in the terms of paragraph 55 of the Framework.
15. Table 4 below, indicates the percentage of appeals allowed and dismissed according to whether the application was determined under delegated powers or by the Planning Committee.

Table 4

Decision Type	Number allowed	% Allowed	Number dismissed	% Dismissed
Delegated	6	46	7	54
Committee	4	67	2	33
Total	10	53	9	47

16. During the period April 2014 to March 2015 a greater proportion of applications determined by Committee have been allowed (67%) than those determined under delegated powers (46%) but the numbers are so low that it is not possible to draw any conclusions.

17. With respect to Committee decisions, Table 5 below provides information on the officer recommendation in these cases.

Table 5

Decision Type	Number allowed	% Allowed	Number dismissed	% Dismissed
Committee decisions contrary to Officer Recommendation	1	50	1	50
Committee decisions in line with Officer recommendation	3	50	1	50
Total	4	67	2	33

18. These six decisions were;

- Maerfield Gate Cottage, Maer – recommended for refusal, refused and appeal allowed
- Land of Slacken Lane, Kidsgrove – recommended for refusal, refused and appeal allowed
- Gateway Avenue, Baldwin’s Gate – recommended for approval, refused and appeal allowed
- Land off Watermills Road, Chesterton – recommended for refusal, refused and appeal allowed
- Farcroft, Manor Road, Baldwin’s Gate – recommended for refusal, refused and appeal dismissed
- Land behind 5, Pinewood Drive, Ashley Heath – recommended for approval, refused and appeal dismissed

As above, the numbers are so few that it would be inappropriate to draw any wider conclusions.

Awards of Costs

19. Of particular importance in terms of the Local Planning Authority learning lessons from appeal performance, are those appeals that have resulted in an award of costs against the Council. In planning appeals the parties normally meet their own expenses and costs are only awarded when what is termed “unreasonable” behaviour is held to have occurred and the affected party has incurred additional costs in the appeal proceedings. The availability of costs awards is intended to bring a greater sense of discipline to all parties involved. Table 6 below indicates those appeals decided between April 2014 and March 2015, where costs claims have been made against the Borough Council.

App No.	Address	Appeal Decision	Costs decision
14/00011/FUL	Maerfield Gate Cottage, Maer	Appeal Allowed	Refused
14/00002/ENFNOT	XJK Jaguar Limited	Appeal Allowed	Refused
13/00266/FUL	Land off Slacken Lane, Kidsgrove	Appeal Allowed	Refused
13/00426/OUT	Gateway Avenue, Baldwin's Gate	Appeal Allowed	Partial award of costs allowed
14/00240/ELD	Lymes Farm House, Butterton	Appeal dismissed	Refused

20. Although there have been 5 claims for costs made against the Council, only one, Gateway Avenue, Baldwin's Gate, was successful. The sum involved has not yet been resolved but undoubtedly it will be considerable. It is especially important that lessons are learnt from the above award of costs against the Council. This costs decision has already been reported to the Planning Committee.
21. The fact that in the four other cases costs awards were applied for but not awarded against the Council indicates that even in cases where the Council's case was found wanting (in one case the substantive appeal was dismissed), the Inspector did not consider that the Council had demonstrated unreasonable behaviour resulting in unnecessary or wasted expense.
22. One claim for costs was made by the Council against the appellant in the Lymes Farm House, Butterton appeal. That claim was successful and costs were awarded.

Conclusions

23. The number of appeals determined in the period April 2014 to March 2015 is relatively low and such low numbers make it difficult and indeed inappropriate to draw any conclusions. Notwithstanding this it remains your Officer's view that there are a number of steps which could be taken to further improve upon the existing situation and these are detailed below. The Committee has previously passed a number of resolutions when considering similar reports in previous years.

Recommendations: -

1. That internal management procedures within the Service including the assessment of case officers' recommendations by more senior officers continue to be applied;
2. That your Officer report to the Chair and Vice Chairman in six months time on appeal performance in the first half of the 2015/16, and on any further steps that have been taken in the light of that performance;
3. That the Committee reaffirms its previous resolution that its Members of the Committee draw to Case Officers' attention any concerns that they have with an application, coming to the Committee for determination, as soon as possible having received notice of the application in the weekly list, so that potential solutions to the concerns are sought with the applicant in line with the requirements of the National Planning Policy Framework;
4. That the Committee reaffirms its previous resolution that full advantage be taken of the use of conditions in planning permissions to make developments acceptable;
5. That the Committee reaffirms its previous resolutions that Members of the Committee proposing to move refusal of a proposal contrary to recommendation be urged to contact the Head of Planning no less than 24

hours before the Committee, with details of the reasons they are minded to give for such a refusal;

6. That the Committee reaffirms its previous resolution that when a proposal to refuse to grant planning permission is made at the Committee contrary to the officer's recommendation, advice be sought as to the most appropriate way to meet the requirement to work in a proactive and positive manner with applicants;
7. That the Committee reaffirms its previous resolutions that the mover and seconder of a resolution of refusal contrary to officer recommendation be identified by the Chair and recorded and in the event of an appeal being lodged there be an expectation that those members will make themselves available as witnesses on behalf of the Council in the appeal proceedings should either the Head of Planning or the Council deem that appropriate; and
8. That the Committee reaffirm its previous resolutions that a proactive approach be taken by officers to appeal handling with early holding of case conferences where appropriate, the strength of the case being continually reassessed in the light of any new evidence received, and that in the case of matters being determined by means of public inquiries the Head of Business Improvement, Central Services & Partnerships or his representative takes charge of the matter.

Appendix 1 – Appeal Decisions 1 April 2014 – 31 March 2015

Application No.	Address	Description	LPA decision date	Decision	Appeal Decision Date
13/00366/FUL	Wolstanton Retail Park	10.5m tall freestanding signage tower	2.7.13	Allowed	7.4.14
13/00948/FUL	2, Nursery Gardens, Park Rd, Butterton	Conservatory	10.2.14	Dismissed	25.4.14
13/00740/FUL	The Lodge, Station Road, Onneley	Erection of dwelling and formation of new accesses	29.11.13	Dismissed	28.4.14
13/00714/FUL	Land Between 82 & 88 Harriseahead Lane	Demolition of garages and erection of detached bungalow	14.11.13	Allowed	9.6.14
13/00977/FUL	Hérons Foods, Castle Walk, Newcastle	Retention of 3 air conditioning condensers and 2 refrigeration condensers on the rear wall	18.2.14	Dismissed	1.7.14
13/00739/FUL	Grange Farm, School Lane, Onneley	Change of use of barn to dwelling	19.11.13	Allowed	8.7.14
14/00011/FUL	Maerfield Gate Cottage, Maer	Replacement warehouse	28.3.14	Allowed	6.8.14
14/00002/ENFNOT	XJK Jaguar Limited, Cross Heath	Unauthorised extension	11.12.13	Allowed	19.8.14
13/00755/FUL	Moss House Farm, Bignall End	Change of use of former barn to two residential market housing units	25.11.13	Allowed	27.8.14
13/00761/FUL	Nursery School, Den Lane, Wrinehill	Detached garage	27.11.13	Dismissed	18.9.14
13/00662/FUL	Land North of 41, Boon Hill Road, Bignall End	Single detached dwelling	7.11.13	Dismissed	22.9.14
14/00274/FUL	Land adj. 48, High St, The Rookery	Detached dwelling	10.6.14	Allowed	22.10.14
13/00266/FUL	Land off Slacken Lane, Kidsgrove	6 bungalows and formation of new accesses	23.7.13	Allowed	23.10.14
13/00426/OUT	Gateway Avenue, Baldwin's Gate	Erection of up to 113 dwellings	10.3.14	Allowed	12.1.15
13/00974/OUT	Land off Watermills Rd, Chesterton	Erection of up to 65 dwellings	15.4.14	Allowed	20.1.15
14/00368/FUL	Wall Farm House, Nantwich Rd, Audley	Two dwellings	14.8.14	Dismissed	4.2.15
14/00240/ELD	Lymes Farm House, Butterton	Lawful Development Certificate for existing use as a domestic garden	5.6.14	Dismissed	25.2.15

14/00037/OUT	Farcroft, Manor Rd, Baldwin's Gate	3 executive Code Level 6 dwellings	24.3.14	Dismissed	8.3.15
14/00053/OUT	Land behind 5, Pinewood Drive, Ashley Heath	Erection of a 2/3 bedroom chalet style bungalow	11.4.14	Dismissed	11.3.15

HALF YEARLY REPORT ON PLANNING OBLIGATIONS

Purpose of the Report

To provide Members with a report on planning obligations which have been secured over the 6 month period referred to in this report, works that have been funded in part or in whole by planning obligations within this period and compliance with their requirements

Recommendations

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

Introduction

Members will recall that the last half yearly report on planning obligations was reported at its meeting in December 2014 and covered the period between April 2014 to September 2014. This report now covers the period between 1st October 2014 to 31st March 2015 and sets out planning obligations which have been secured over this 6 month period, works that had been funded during that period in whole or in part by planning obligations, and compliance with their requirements.

One of the areas of work within the Planning Service relates to the ongoing maintenance of a database relating specifically to planning obligations whether achieved by agreement or by undertaking. These are sometimes known as Section 106 agreements or undertakings – being entered into pursuant to Section 106 of Town and Country Planning Act 1990, as amended.

As was reported in December 2014 the database requires updating regularly to capture all the information regarding S106 Obligations and whilst the database has been completed to a certain point it is missing some information which restricts its use.

It has been identified that the database is missing some key information which would help officers to monitor cases and report information more efficiently. It is hoped that significant progress will be made over the coming months which will enable information to be obtained from the database directly, which it currently is not. There is a need to have a fully up-to date database so that accurate information can be retrieved more efficiently. Recent legislative changes mean that the Service needs to be immediately able to establish what planning obligations have been secured since 5 April 2010 with respect to individual projects and types of infrastructure.

As with previous half yearly reports the relevant Section 106 information is reported in four Tables. The final Table recording Developments where apparent breaches of planning obligation has been identified (October 2014 – March 2015) is published separately as a restricted item..

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2014 – 31st March 2015)

The following Table identifies developments where planning obligations by agreement or undertaking have been entered into by developers/owners. It does not include the obligations entered into by the public authorities, except where they are the landowner/developer. The cases involve both financial contributions, the provision of development such as affordable housing and obligations which restricts the use of a development e.g. non-severance of ancillary accommodation. Contributions are usually payable upon commencement of the development (the payment "trigger"), but that can vary. If a development is not undertaken it follows that there is no requirement to pay the contribution.

Application reference and date of agreement or undertaking	Location of development	Development	Purpose of the obligation(s) entered into by developers/owners	The level of contribution(s) payable when development trigger achieved
14/00476/FUL 13 th January 2015	Homestead/ May Place Former Day Centre May Place Brampton Road Newcastle	Proposed new 65 apartment Extra Care scheme with allied facilities	Public Open Space in the vicinity of the development – Upgrade and Maintenance	£35,573 (Index Linked)
			Travel Plan Monitoring	£2,200 (Index Linked)
13/00426/OUT 14 th November 2014 (as part of appeal proceedings, the appeal subsequently has been allowed and the permission granted)	Land at end Of Gateway Avenue, Baldwins Gate	Erection of up to 113 dwellings and associated works	16% on-site Affordable Housing	Not Applicable
			Provision of payment for offsite provision of affordable housing in lieu on 9% on-site provision	£620,000 (index linked)
			Provision of Public Open Space and its maintenance arrangements	£1,920 (Index Linked) open space maintenace sum per dwelling, as may be permitted under the Reserved Matters Approval, should open space not be transferred to a Management

				Co.
			Travel Plan Monitoring	£2,150 (Index Linked)
			Provision of additional primary and secondary education places at Baldwins Gate Primary School and Madeley High School respectively	£442,146 (Index Linked)
13/00525/OUT 9 th December 2014	Land Between Apedale Road And Palatine Drive Chesterton (Apedale South)	Residential development of up to 350 dwellings including open space, new vehicular accesses, infrastructure, ancillary development and associated earthworks	Enhanced Bus Service provision	£350,000 (index linked)
			Primary school places provision at Churchfields Primary School and/ or Chesterton Primary School or any other school within Chesterton Community Sports Colleges' catchment area	£816,294 (index linked)
			Provision of Public Open Space and its maintenance arrangements	£674,700 (index linked) should open space not be transferred to Management Co.
			SuDS area maintenance arrangements	£40,000 (index linked) should SuDS area not be transferred to Management Co.
			Newcastle (urban) Transport and Development Strategy (NTADS) contribution	£193,313 (Index linked)
			Travel Plan Monitoring	£6,200 (index linked)
			Affordable Housing (15% of the units – with no less than 10% onsite - and offsite affordable housing contribution making up difference)	Not Applicable
			Viability Re-Assessment in specified circumstances and recalculation of off site affordable housing contribution	Not Applicable
			Extinguishment of minerals consent	Not applicable

08/00795/EXTN2 4 th November 2014	Former T G Holdcroft Knutton Road, Wolstanton	Application to extend the time limit for implementing planning permission 08/00795/OUT (Residential development (12 units))	Newcastle (urban) Transport and Development Strategy (NTADS) contribution	£8,000 (Index Linked)
			Towards Wolstanton Park/ Marsh	£35,316.00 (Index Linked)
13/00974/OUT 6 th January 2015 (as part of appeal proceedings, the appeal subsequently having been allowed and the permission granted)	Land Off Watermills Road Chesterton	Residential development of up to 65 dwellings including means of access	Newcastle (urban) Transport and Development Strategy (NTADS) contribution	£40,079 (index linked)
			Public Open Space Improvements at Audley Road Park or Crackley Recreation Ground and their maintenance	£2,943 per dwelling for the improvement and maintenance of greenspace, as may be permitted under the Reserved Matters Approval,
			Contribution to the provision of additional primary and secondary school places in the vicinity of the site	£154,434 (index linked)
			25% (16 units) on site Affordable Housing	Not applicable
13/00424/FUL 13 th February 2015 (as part of appeal proceedings, the decision on the appeal still being awaited)	Hawthorns, Keele village	92 dwellings with school drop off point, shop and linked areas of greenspace	Contribution to the provision of education places in the area	132,976 (index linked)
			Maintenance arrangements for the public open space within the development	Not applicable
			Reassessment of the ability of the scheme to make other contributions towards NTADS, provision of education places and affordable housing (by payment in lieu of on site provision), should the development have not substantially commenced within 12 months of any grant of the planning permission	Not applicable
			Overage calculation at conclusion of the development	Not applicable
13/00990/OUT	Land to rear of Rowley House, Madeley	Residential development of up to 42 dwellings	25% Affordable housing	Not applicable
			Contribution towards improvement and	£2,943 per

31 st March 2015			maintenance of public open space at Madeley Pool area and the Birchdale play area, or if that is not possible, of the College Gardens public open space	dwelling
			Contribution to provision of education places at Madeley High School	£49,866 (index linked)

Table 2 - Development where financial contributions have been made (1st October 2014 – 31st March 2015)

The following Table identifies the development where the planning obligation requires the payment of a financial contribution and the trigger for payment has been reached and payments have been made. The sum of the contribution may differ from that originally secured due to it being a phased payment of the contribution, or the application of indexation.

Permission reference	Location of development	Development	Purpose of the obligation(s)	Contribution made
12/00512/FUL	Former Thistleberry House Residential Home Keele Road Newcastle Under Lyme	Demolition of existing Thistleberry House building, erection of 37 dwellings and creation of new access off Keele Road	Public Open Space contribution	£42,767.58 (second part of POS contribution)
			The provision of educational facilities within the vicinity of the land	£46,310
07/00196/FUL	Former Brooks Laundry Oxford Road Basford ST5 0PZ	Erection of 14 two storey townhouses and associated garages (Amendment to plots 5-18 as approved under 06/00659/FUL)	The provision and/or enhancement of offsite public open space	£12,600 (see Table 4 below)
09/00387/FUL, 06/00774/FUL & 99/00341/OUT	Land Off, Keele Road (Milliners Green)	Residential development	The provision of a Neighbourhood play area in the vicinity of the development, the improvement of leisure facilities at Pool Dam Marshes, the future maintenance of Pool Dam Marshes and the provision of a Community Education Centre at Pool Dam Marshes	£121,115.75 (see Table 4 below)
12/00197/FUL	35 Apedale Road Chesterton Newcastle Under Lyme	Construction of pair of semi detached dwellings & new vehicular access	Newcastle (urban) Transport and Development Strategy (NTADS) contribution	£1,016
13/00712/FUL	Land At The Junction Of Blackfriars Road And Lower Street Newcastle-under-Lyme Staffordshire ST5 2ED	Construction of new foodstore (Class A1) with associated car parking, servicing and landscaping.	Improvement of subways on Lower Street	£76,000

Table 3 - Development where financial contribution have been spent. (1st October 2014 – 31st March 2015)

The following Table identifies those developments where the spending authority have advised the Planning Authority that they have spent within the above period a financial contribution secured via planning obligations. The Table is however incomplete in that it only refers to expenditure by the Education Authority and by the Borough Council. It does not record any other expenditure that there may have been in this period by the County Council of contributions that it has received – particularly towards Travel Plan Monitoring or NTADS. That information both for the above period, and for the previous periods (October 2013 to March 2014 and April 2014 to September 2014) is to be sought and if available will be provided within the next half yearly report. Similarly the report only refers to the spending of financial contributions, it does not refer to the affordable housing that has been provided as a consequence of planning obligations

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
11/00129/FUL	Land Off Grange Lane Wolstanton Newcastle Under Lyme Staffordshire	Residential development	£56,621.37 towards Public Open Space improvements/ enhancements	Improvement of the play facility at Wolstanton Marsh
06/01180/OUT	Land And Buildings At Ashfields New Road, Knutton Lane And Liverpool Road Newcastle	New college, sports facilities, Superstore, Petrol Filling station, offices, housing, parking, landscaping and associated engineering works	£67,726.97 towards Subway Improvements - Enderley St, Ryecroft and Bridge Street	Refurbishment of subways (including preparation for design works, refurbishment and painting of subway 'barrels', handrails and anti-graffiti coatings

With respect to the earlier period (October 2013 to September 2014 the following information has been received from the Education Authority

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
06/00337/OUT, 08/00435/OUT and 09/00136/OUT	Former Silverdale Colliery Scot Hay Road Silverdale	<p>A. Full planning permission for engineering and remediation works in preparation for redevelopment for housing, community uses and greenspace; and associated landscaping.</p> <p>B. Outline planning permission for the erection of buildings for residential and community uses, with all matters of detail reserved for subsequent approval with the exception of the access points into the site from Scot Hay Road.</p>	£210,595 towards primary school places provision	Provision of 70 additional school places at St Luke's Primary School comprising demolition of the small WC block and new extension to provide a further two classrooms with associated toilets, store rooms, a library, accessible WC and community room with toilets and kitchenette. Extension of two of the existing classrooms provided to give the minimum teaching area required. The existing library has been refurbished to two SEN rooms for special needs one to one learning. Additional extension to the existing staff room and provision of extended car park and bin relocation. The grassed area adjacent has been partly transformed in to a play ground

Report on Open Enforcement Cases

Purpose of the Report

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

Recommendations

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

Background

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

In the last quarter a further 50 new cases have been reported, higher than the previous quarter (38). The current number of open cases is 260 (20 more than at the end of the last quarter). The number of open cases this quarter has therefore increased.

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

Officers are seeking to continue to make progress in tackling the backlog. A number of the cases indicate in the Table below have associated pending planning applications awaiting determination (3 as at 11th May 2015).

Conclusions

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

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

Current Outstanding Enforcement Cases

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

Current Enforcement Status

Year	Total	Open	C1	C2	C3	BOC	L	M	H
2015	71	49	1	37	9	2	-	-	-
2014	212	82	1	57	18	-	-	-	-
2013	219	40	5	27	8	-	-	-	-
2012	229	27	8	12	7	-	-	-	-
2011	204	12	2	7	3	-	-	-	-
2010	206	9	2	6	1	-	-	-	-
2009	233	10	-	6	1	1	-	1	1
2008	276	10	-	-	-	-	3	7	-

2007	353	6	-	-	-	-	1	4	1
2006	280	6	-	-	-	-	2	3	1
2005	227	3	-	-	-	-	-	1	2
2004	252	1	-	-	-	-	1	-	-
2003	244	1	-	-	-	-	-	1	-
2002	247	3	-	-	-	-	-	2	1
2001	204	1	-	-	-	-	-	1	-

Open Cases **260**
(inc Backlog)

Previous Quarter 240

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

Date report prepared

11th May 2015

Planning Committee 26th May 2015

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

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

One new case has been added since the previous report, provided to the Planning Committee at its meeting on the 3rd March 2015. Details of that case, and the progress made within the last Quarter, and the target for the next Quarter are contained within the attached Appendix. It was confirmed in the last report that all of the cases that were on the list at the time of the November meeting had been closed and this has now been removed from the report.

RECOMMENDATION

That the information be received.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
15/00037/207 C2	<p>Land at Doddlespool, Main Road, Betley</p> <p>Breaches of conditions imposed on planning permission reference 14/00610/FUL for the retention of a water reservoir, formation of hardstandings and repairs to the existing track.</p>	<p>02.04.15 in respect of Temporary Stop Notice</p> <p>20.4.15 in respect of Stop Notice and Enforcement Notice</p>	<p>The Council were made aware of problems at the site in March this year. This followed problems the previous year that appeared to stop during the winter months.</p> <p>A Temporary Stop Notice (TSN) was served on 2nd April 2015 relating to continued importation of material onto site which was prohibited by condition; the number of lorries entering and leaving the site exceeding that specified in condition; and lorry movements taking place outside of the hours specified by condition. The TSN required the cessation of such activities. It took effect on the date of service and ceased to have effect on 30th April.</p> <p>A Stop Notice (SN) and Enforcement Notice (EN) were served on 24th April 2015. The SN took effect on 30th April 2015. The EN takes effect on 27th May unless an appeal is lodged.</p> <p>The SN required all activity specified to cease by limiting the number of lorries entering and leaving the land to no more than 10 per day and by not permitting lorries to access or egress the site before 0800 hours and after 1600 hours weekdays or at all on weekends or Bank Holidays.</p> <p>The steps set out in the EN repeated matters covered in the SN but included the following additional matters, which also address breaches of condition:</p> <ul style="list-style-type: none"> • Submission of a plan showing an appropriate location for material that was deposited on the site • Remove portacabin, commercial trailer/cabin and screening/processing machinery. • Submission of a report that assess the impact of the development on Betley Mere SSSI • Submission of plans showing location and amount of peat and top soil that is to be integrated into the existing unit. • Cease unauthorised importation of material on the land. <p>The Council is not aware that there has been a breach of the SN.</p>	<p>Monitor compliance with the Stop Notice and the Enforcement Notice if no appeal is lodged and it takes effect.</p>

By virtue of paragraph(s) 1, 2, 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

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