

Public Document Pack

Date of meeting Tuesday, 16th September, 2014
Time 7.00 pm
Venue Council Chamber, Civic Offices, Merrial Street,
Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Geoff Durham

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 2 MINUTES OF PREVIOUS MEETING(S)** **(Pages 3 - 6)**
To receive the minutes of the previous meetings held on 26 August, 2014.
- 3 Application for Major Development - 8-10 High Street, (Pages 7 - 12)**
Newcastle. Tanworth Construction Ltd. 14/00483/FUL
- 4 Application for Other Development - Bignall End Cricket Club, (Pages 13 - 18)**
Boon Hill Road, Bignall End. Vodafone Ltd. 14/00583/TDET
- 5 Application for Other Development - The Square and Village (Pages 19 - 24)**
Cinemas 98-104 High Street, Newcastle. WHP Wilkinson
Helsby. 14/00586/TDET
- 6 Application for Other Development - Langholm, Checkley Lane, (Pages 25 - 32)**
Wrinehill. Mrs J Monk. 14/00489/FUL
- 7 Application for Other Development - Old Springs Farm, (Pages 33 - 40)**
Stoneyford. HLW Farms / Berrys. 13/00245/FUL
- 8 Policy, Appeal and Miscellaneous Items - Response to (Pages 41 - 56)**
technical consultation on Planning.
- 9 Appeal Decision - Moss House End . 13/00755/FUL (Pages 57 - 58)**
- 10 Tree Preservation Order 156 - Main Road Betley and New Road, (Pages 59 - 62)**
Wrinehill
- 11 Tree Preservation Order 157 - Rowley House, Moss Lane, (Pages 63 - 66)**
Madeley
- 12 Tree Preservation Order 157b- 23 Church Lane, Mow Cop (Pages 67 - 70)**
- 13 URGENT BUSINESS**

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

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

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

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

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

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

PLANNING COMMITTEE

Tuesday, 26th August, 2014

Present:- Councillor Sophia Baker – in the Chair

Councillors Becket, Mrs Braithwaite, Cooper, Fear, Mrs Hambleton,
Mrs Heesom, Northcott, Proctor, Miss Reddish, Waring and
Williams

1. **APOLOGIES**

Apologies were received from Cllr Bates and Cllr White.

2. **DECLARATIONS OF INTEREST**

Cllr Proctor declared an interest in item 4 on the agenda as he had been chair and vice chair of Audley Parish Council when previously considering the application.

Cllr Reddish declared an interest in item 5 on the agenda as the application was close to a church that she had ties with.

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

Resolved: That the minutes of the previous meeting be approved with the inclusion of Cllr Stringer's attendance.

4. **APPLICATION FOR MAJOR DEVELOPMENT - CARDWAY BUSINESS PARK, LINLEY LANE, ALSAGER; CARDWAY LTD/KNIGHTS LLP; 348/213**

Resolved: That Cheshire East Council be advised that the Borough Council has no objections to the application.

5. **APPLICATION FOR MINOR DEVELOPMENT - LAND REAR OF 24 TO 36 HEATHCOTE ROAD, MILES GREEN; MILLWOOD HOMES; 14/00533/FUL**

It was proposed that the condition recommended at number 4 in the report be strengthened to state that no fence be erected. This recommendation was seconded.

Members also recommended that the bin storage unit be repositioned.

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

1. Standard Time limit
2. Approved plans/drawings/documents
3. Approval of all external facing and roofing materials
4. Details of all boundary treatments, with no fencing along the rear of
Nos. 24-36 Heathcote Road.
5. Details of all surfacing materials
6. Landscaping scheme
7. Tree protection measures

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

6. APPLICATION FOR OTHER DEVELOPMENT - GRASS VERGE ADJACENT TO THE SQUARE, PILKINGTON AVENUE; VODAFONE LTD; 14/00566/TDET

Resolved:

1. That prior approval be required.
2. That prior approval be granted subject to a condition to the effect that permission cannot be taken advantage of if the scheme approved under 14/00243/DET were to be implemented.

7. APPLICATION FOR OTHER DEVELOPMENT - 27 IRON MARKET; MR LINH; 14/00456/FUL

Resolved:

That the application be permitted subject to the undermentioned conditions:

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

8. APPEAL AND COSTS DECISION - MAERFIELD GATE FARM; 14/00011/FUL

Resolved: That the decisions be noted.

9. **QUARTER 1 REPORT ON EXERCISE OF AUTHORITY TO EXTEND PERIOD OF TIME WHEN SECTION 106 OBLIGATIONS CAN BE ENTERED INTO**

Resolved:

a) That the report be noted

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

10. **URGENT BUSINESS**

11. **14/00476/FUL (HOMESTEAD, BRAPTON ROAD) AND (ST QUENTIN, SANDY LANE) 14/00543/FUL**

Resolved: That a visit by the Planning Committee be undertaken with respect to planning applications 14/00476/FUL and 14/00453/FUL

12. **EXCLUSION RESOLUTION**

Resolved: That the public be excluded.

13. **LAND AT DODDLEPOOL, MAIN ROAD, BETLEY - 13/00056/207C2**

Resolved:

a) That subject to:

- i) A valid planning application for the retention and completion of the unauthorised works being received by the 3rd September 2014
- ii) The hours of the associated lorry movements being within the time window of 8 a.m. to 4 pm Monday to Fridays only (and at no other time)
- iii) The industrial skips and fuel tank not being brought back onto the site;

The Council should take no formal enforcement action at this time.

b) Should

- i) Either a valid planning application for the retention and completion of the works not be received by the 3rd September 2014, or
- ii) Associated lorry movements occur outside the above hours, or
The industrial skips and fuel tank be brought back onto the site;

The Head of Business Improvement, Central Services and Partnerships be authorised and instructed to issue an enforcement notice and to take and institute

Planning Committee - 26/08/14

on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 for the following;

- i) Removal of the portakabin within one month from the date of the Notice coming into effect,
 - ii) Restrictions from the date of the Notice coming into effect, on hours of lorry movements to and from the site to between 8 a.m. and 4 pm Monday to Fridays only (and at no other time)
 - iii) All activity associated with the engineering works, i.e. the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas to cease after a period of no more than 2 years from the Date of the Notice coming into effect.
- c) That the Borough Council should invite other involved agencies to attend a multi-agency meeting to which the Chair and Vice Chair of the Planning Committee should be invited together with the ward members

COUNCILLOR SOPHIA BAKER
Chair

**8 – 10 HIGH STREET, NEWCASTLE (SITE OF FORMER POUNDSTRETCHER STORE)
TANWORTH CONSTRUCTION LTD**

14/00483/FUL

The Application is for the variation of condition 2 of permission 12/00218/FUL which specified the approved plans and supporting information of that permission. The variation sought is the substitution of the approved plans with amended plans which show changes to the external scale and appearance of the building.

The application site is that of the former Poundstretcher store located within the Primary Shopping Area of Newcastle town centre as indicated on the Local Development Framework Proposals Map and within the Newcastle Town Centre Conservation Area. In terms of the Newcastle Town Centre Supplementary Planning Document (SPD) the site lies within the “Northern Quarter”.

The statutory 13 week determination period for the application expires on the 17th October 2014

RECOMMENDATION

PERMIT subject to the following conditions:-

- 1. Approved plans to be as now applied for**
- 2. This consent grants permission only for the variation of condition 2 of planning approval 12/00218/FUL. All other conditions of that permission shall apply**

Reason for recommendation

The original scheme was considered to make a positive contribution to the character and appearance of the Conservation Area and general streetscene of the Town Centre. The proposed building has the same overall proportions and scale and retains the appearance of the approved scheme because the changes to the design are minor. For these reasons the application should be approved.

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

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

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

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

Strategic Aim 16 (SA16) – To eliminate poor quality development and establish a culture of excellence in built design by developing design skills and understanding by requiring good, safe design as a universal baseline and distinctive design excellence in all development proposals and by promoting procurement methods which facilitate the delivery of good design.

Policy ASP4: Newcastle Town Centre Area Spatial Policy

Policy CSP1: Design Quality

Policy CSP2: Historic Environment

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy B5: Control of Development Affecting the Setting of a Listed Building

Policy B9: Prevention of Harm to Conservation Areas

Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area

Policy B13: Design and Development In Conservation Areas

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

Other material considerations include:

Relevant National Policy Guidance:

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

Supplementary Planning Guidance

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

Newcastle Town Centre Supplementary Planning Document (SPD) (January 2009)

Relevant Planning History

12/00040/CON Demolition of fire damaged building Permitted

12/00218/FUL Erection of a replacement building to be used as a retail/shop unit Permitted

Views of Consultees

The Chair of the **Conservation Advisory Working Party** has acted on behalf of the Working Party because the relevant meeting was cancelled due to there being insufficient business. The Chair has considered the revised plans and raises no objections to the application due to the fact that no harm would be caused to the character or appearance of the Newcastle Town Centre Conservation Area.

The **Conservation Officer** notes that permission has previously been granted for a replacement building. The scheme now proposed is slightly amended following the detailed design for the construction phase of the building and its steelwork. The change in the height of the eaves and the alterations to the chimneys and window heights are minor and will not be visually different to the permitted scheme particularly from street level. As far as the rear is concerned the changes are not that cause harm to the building's design and therefore no harm to the Conservation Area would result.

Representations

No letters of representation have been received.

Applicant/agent's submission

The application includes information that the detailed design process has created the need to accommodate a steel frame which has altered the external appearance of the building.

All of the application documents can be viewed at the Guildhall, and on the Council's website using the following link www.newcastle-staffs.gov.uk/planning/1400483FUL. The previously approved scheme is available to view on the Councils' website and will be available for members to view at the Committee.

KEY ISSUES

The original applications (**12/00040/CON & 12/00218/FUL**) were for the demolition of the building and full planning permission for a replacement building respectively. Conservation Area Consent and full Planning Permission were granted, the proposals being considered acceptable.

The replacement building was considered to have no greater impact than the previous building with significant improvements to the design and appearance to the frontage of the building being achieved which would enhance the character and appearance of this part of the Newcastle Town Centre Conservation Area.

Application reference 14/00483/FUL is for the variation of condition 2 of 12/00218/FUL which specified the approved plans. The variation sought is the substitution of the approved plans with plans that shows slight variations to the external appearance of the building.

The alteration to the plans, if accepted, will mean that the height of the front face of the building to the eaves will be reduced by 600mm. From the eaves to the ridge there will an increase of approximately 500mm (measured vertically).The proportions of the window positions on the building will therefore slightly change but with no discernable difference to the passer-by at street level. The height and proportions of the shop front will remain the same. The overall height of the building to the ridge remains the same as are the chimney heights. The rear two storey outrigger built in the traditional style is slightly shorter than in the approved scheme by approximately 500mm but again the change will not be noticeable. All of the other specifications relating to the materials proposed remain the same.

Background Papers

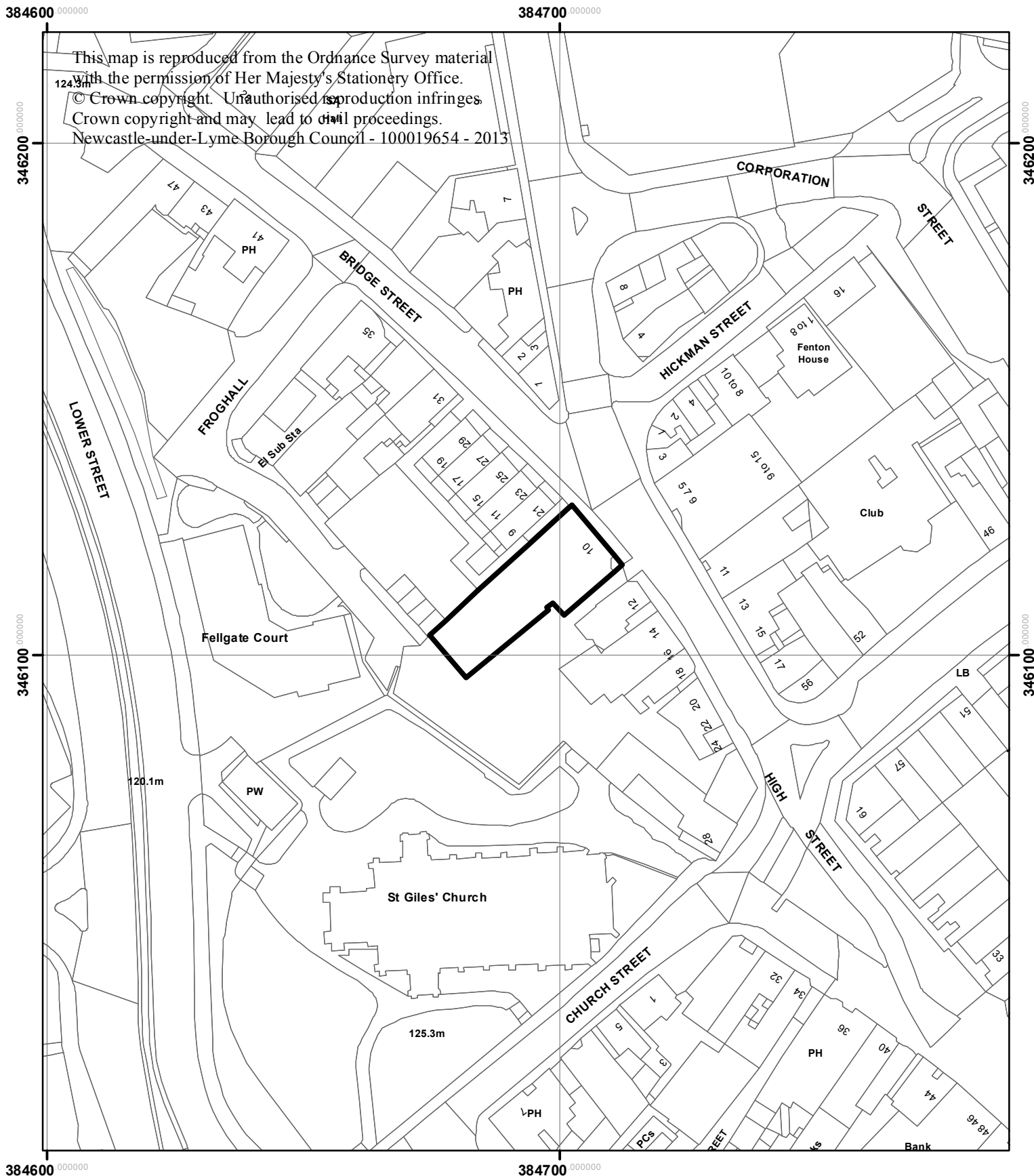
Planning file
Planning documents referred to

Date report prepared

3 September 2014

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8-10 High Street Newcastle 14/00483/FUL



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BIGNALL END CRICKET CLUB, BOON HILL, BIGNALL END
VODAFONE LTD

14/00583/TDET

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

The site lies within the rural area, the green belt and an area of landscape restoration as indicated on the Local Development Framework Proposals Map.

Unless a decision on this application is communicated to the developer by the 24th September 2014 the development will be able to proceed as proposed.

RECOMMENDATION

(a) Prior approval is required, and

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

Reason for Recommendation

It is considered that the development in this instance requires the benefit of prior approval and in assessing its siting and design it is considered that the replacement structure would not harm the visual amenity of the area due to its acceptable height, design and location within the street scene. The proposal would also avoid the need for an additional structure of a similar size and design within the area to meet the network requirements and support the expansion of the communications network in this area. The proposal would therefore meet the guidance and requirements of the NPPF and it would also comply with policy T19 of the Newcastle under Lyme Local Plan as well as policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS).

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

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

Policy CSP1: Design Quality

Newcastle under Lyme Local Plan 2011

Policy T19: Telecommunications Development – General Concerns
Policy T20: Telecommunications Development – Required Information
Policy S3: Development in the Green Belt
Policy N17: Landscape character – general considerations
Policy N21: Area of Landscape Restoration

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Policy Guidance (2014)

Relevant Planning History

96/00711/TDET Permitted 1.11.1996 Determination on whether telecommunications apparatus requires prior approval within 28 days

02/00873/TDET Refused 13.12.2002 Replacement of existing telecommunications monopole with a 15m monopole, 3 additional antennae and equipment cabin and associated development

03/00839/TDET Permitted 14.10.2003 Replacement telecommunications pole, 6 antennae, 2 transmission dishes and ancillary development

Representations

None received. Public consultation expires on the 5th September 2014, therefore any representations that are received will be reported to Planning Committee via a supplementary report.

Views of consultees

Audley Parish Council has no objections and supports the application

The **Environmental Health Division** has not commented on the application.

Applicant/agent's submission

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

- The existing 15m high monopole will be removed and replaced with proposed 17.5m high monopole, and the existing 3 No. antennas will be removed and replaced with 6 No. antennas. The existing transmission dish is proposed to be relocated onto a new dish bracket along with 3 No. new 300mm transmission dishes.
- The existing Vodafone equipment cabin on concrete base measuring 2510 by 2895mm is to house the proposed equipment.
- The site is for Vodafone only, however the upgraded mast will fit into the wider 02/ VF site sharing network and thus this facility adheres to the site sharing policies of the Local Planning Authority and the National Planning Policy Framework.
- The site is located within the open countryside and within the Green Belt
- The diameter of the shroud will be increased, however it is a minor increase which would not detract from the character of the area. The alternative would be the addition of a separate ground based column elsewhere in close proximity to the existing structure, which would have a greater visual impact.
- The site is required to provide enhanced coverage and capacity for Vodafone, which will improve coverage and capacity in the ST7 area of Audley.

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

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

The full document is available for full inspection at the Guildhall and on the Council's website at www.newcastle-staffs.gov.uk/planning/1400583TDET

KEY ISSUES

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

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

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

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

As such there is national policy support in principle for telecommunications development and this must be taken into consideration when reaching an initial decision on whether prior approval is required, and also in the consideration as to whether prior approval should be granted.

Is prior approval required?

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

The application is for the replacement of an existing telecommunications monopole located in the rural area at Bignall End Cricket Club, with residential properties located nearby on Boon Hill.

Due to the location in the transition between the urban area and the open countryside and the proposed increase in height it is considered that that, in this case, prior approval is required for the siting and design of the proposal.

Should prior approval be granted?

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

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

The existing structure is located at Bignall End Cricket Club, approximately 100 metres from Boon Hill Road.

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

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

Proposed equipment will be housed inside the existing equipment cabin.

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

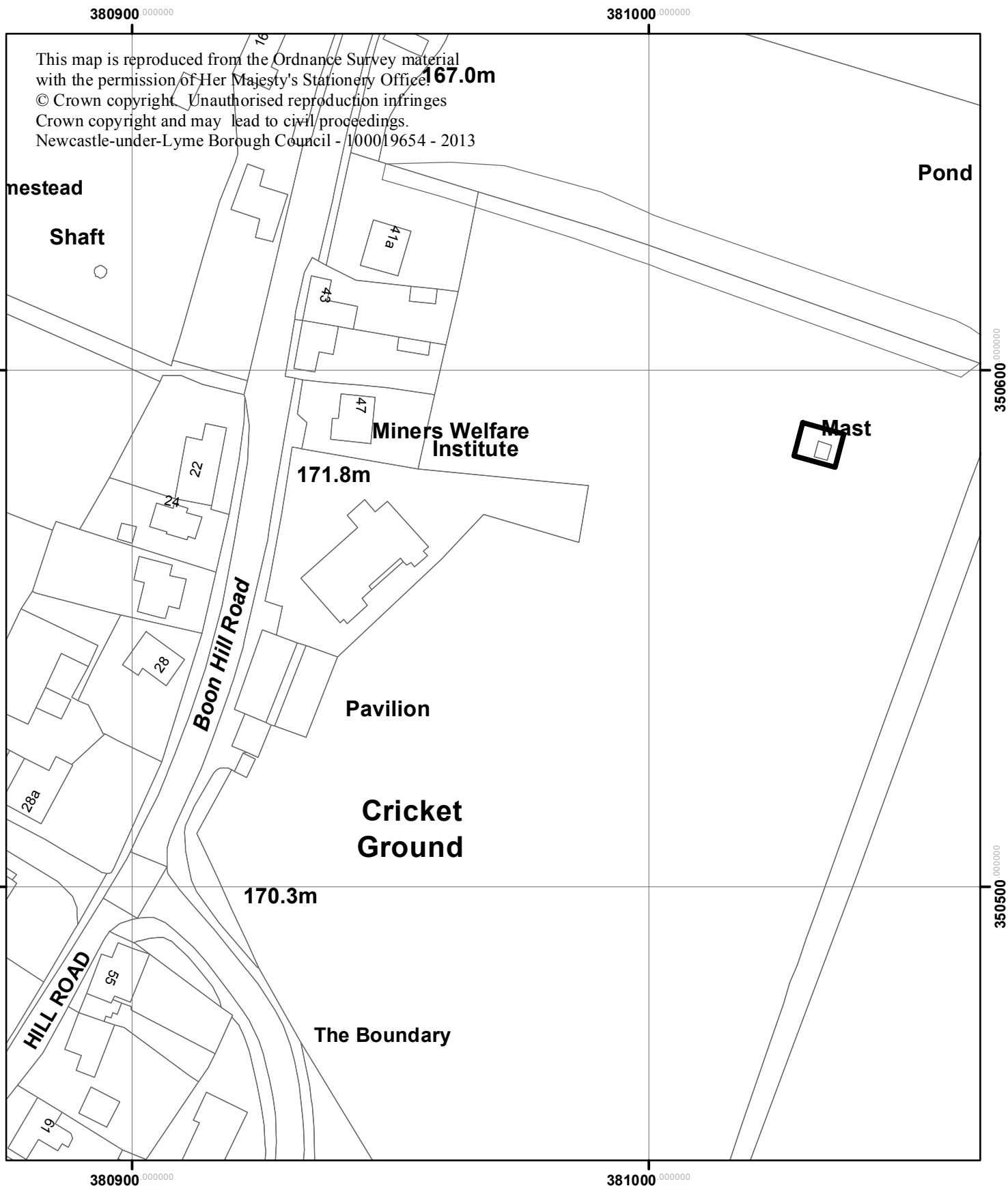
Background Papers

Planning File referred to
Planning Documents referred to

Date report prepared

26.8.14

Bignall End Cricket Club Boon Hill Bignall End 14/00583/TDET



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THE SQUARE, 98-104 HIGH STREET, NEWCASTLE
WHP WILKINSON HELSBY

14/00586/TDET

The application is for a determination as to whether prior approval is required for the siting and appearance of the following:

- Replacement of 6 existing antennas which are located on the side of two chimneys with 6 antennas of the same height.
- 3 new antennas

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

Unless a decision on this application is communicated to the developer by the 25th September 2014 the development will be able to proceed as proposed.

RECOMMENDATION

(a) Prior approval is not required, however

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

Reason for Recommendation

The proposed development is considered to represent an acceptable design that would not result in a significant and adverse harm to the visual amenity of the area or the character and appearance of the Clayton Conservation Area. Any minimal impact of the increased height of the structure would be outweighed by the demonstrated technical need for the development and the proposal being an upgrade of an existing structure. Due to the submission of the ICNIRP declaration as part of the proposal it is accepted that the development would not have an adverse impact upon the health and well-being of local people. The proposed development would therefore adhere to the principles set out within the NPPF and comply with policies T19, B9, B10, B13, B14 and B15 of the Newcastle under Lyme Local Plan as well as policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026.

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

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

CSP1: Design Quality

CSP2: Historic Environment

Newcastle under Lyme Local Plan 2011

T19: Telecommunications Development – General Concerns

T20: Telecommunications Development – Required Information

B9: Prevention of Harm to Conservation Areas

B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area

B12: Provision of Services in Conservation Areas

B13: Design and Development In Conservation Areas

B14: Development in or Adjoining the Boundary of Conservation Areas

B15: Trees and Landscape in Conservation Areas

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Policy Guidance (2014)

Relevant Planning History

01/0769/FUL Permitted Installation of telecommunication apparatus

02/0483/FUL Permitted Installation of telecommunication apparatus

Representations

None received.

Views of consultees

The **Conservation Officer** comments that the topography of the town centre slopes down considerably towards the south which limits any views of the antennas. Walking through the town from the north and southwest down Hassall Street means that views are possible of the roof, the chimneys and therefore the antennas. The Conservation Officers opinion is that principal views are at eye level, drawn by the activity within the town centre at street level. In townscape terms there is no harm caused by this upgrade especially since the additional antennas are to the rear side of the chimneys and barely be visible if at all from within the Conservation Area. The conclusion is that no harm will come to the Conservation Area, its significance will remain unaltered given the context of the character of the existing townscape, the building itself, the development proposed and the topography of the site.

The Chair of the **Conservation Advisory Working Party** has comment on their behalf and considers that the proposal will have no adverse effect on the character or appearance of the Conservation Area, and therefore has no objections.

Applicant/agent's submission

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

- Whilst in the Conservation Area the equipment is unobtrusive and minor and will have no detrimental impact on the building, the Conservation Area or the wider locale.
- The upgrade will house both Vodafone and 02. The sharing of base stations between multiple operators is one of the key strategic policy principles contained within the NPPF.
- Present of the existing roof top equipment sets a clear precedent for telecommunications development in this location.

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

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

The full document is available for full inspection at the Guildhall and on the Council's website at www.newcastle-staffs.gov.uk/planning/1400586TDET

KEY ISSUES

The application is for a determination as to whether prior approval is required for the siting and appearance of 6 replacement antennae and 3 new antennae all attached to two chimneys on the roof of the building. All proposed antennae do not exceed the height of the chimneys, as is currently the case.

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

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

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

As such there is national policy support in principle for telecommunications development and this must be taken into consideration when reaching an initial decision on whether prior approval is required, and also in the consideration as to whether prior approval should be granted.

Is prior approval required?

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

The application is for new antennae and the replacement of existing antennae on a building which is located within the Town Centre Conservation Area. Notwithstanding its sensitive location it is considered that the replacement antennae will not be prominent in views given its roof top location and being attached to existing chimneys. As such it is not considered that the proposal will have a significant impact on its surroundings.

Notwithstanding the sensitive location of the application site it is considered in this case that prior approval is not required.

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

Should prior approval be granted?

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

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

The siting of the proposed antennae is on top of the building housing the VUE cinema which is within the Conservation Area and as such has the potential to affect its character and appearance. Whilst views are possible of the roof, the chimneys and the antennae the eye is not drawn to this and as such they would not be visually prominent. It is considered as the additional antennae are to the rear of the chimneys and barely visible that proposal will not impact upon the character and appearance of the Conservation Area.

The proposal involves site sharing which is encouraged and overall the proposal is therefore considered to comply with local and national telecommunications policies and that prior approval should be granted.

Background Papers

Planning File referred to
Planning Documents referred to

Date report prepared

5th September 2014

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LANGHOLM, CHECKLEY LANE, WRINEHILL
MRS J MONK

14/00489/FUL

The application is for full planning permission for the demolition of part of the existing garage, the erection of a single storey rear extension and a detached single garage, and a new visibility splay to Checkley Lane.

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

The statutory 8 week period for the determination of this application expired on 25th August 2014.

RECOMMENDATION

Permit subject to conditions relating to the following matters:-

- 1. Standard time limit.**
- 2. Approved plans**
- 3. Materials to be those as specified in application**
- 4. New garage to be used for parking vehicles and cycles**
- 5. Prior approval of a landscaping scheme**
- 6. Visibility splays to be kept free of obstructions over a height of 600mm above the carriageway level.**

Reason for Recommendation

The proposed new garage would represent inappropriate development in the Green Belt. It is, however, considered that very special circumstances would exist which outweigh the harm caused in that the permitted development fall-back position would allow for a garage of the same dimensions in the same location to be constructed.

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

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

Policies and proposals in the approved Development Plan relevant to this decision:

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

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

Newcastle under Lyme Local Plan 2011

Policy S3: Development in the Green Belt
Policy H18: Design of residential extensions, where subject to planning control
Policy N20: Area of Landscape Enhancement

Other Material Considerations

Relevant National Policy Guidance:

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

Supplementary Planning Guidance

Supplementary Planning Guidance relating to the control of residential development

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

Relevant Planning History

13/00799/FUL Permitted Single storey kitchen extension, loft conversion with linked dormers, erection of oak frame garage and car port and new visibility splay to Checkley Lane.

Views of Consultees

Betley, Balterley and Wrinehill Parish Council has no objections

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

- The visibility splay shown on drawing no: JM/LCL/2014/2 rev A shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.
- The garage indicated on the approved plan shall be retained for the parking of motor vehicles and cycles. It shall at no time be converted to living accommodation without the prior express permission of the Local Planning Authority.

The **Landscape Division** of the Council has no objections subject to the submission of a landscaping plan for approval. This should include tree planting to mitigate the loss of the trees that have been removed and hedge planting to the frontage to replace that lost to facilitate construction of the retaining wall.

Representations

None received.

Applicant's/Agent's Submission

A case for very special circumstances was advanced during the application process.

The application details are available to view at the Guildhall or using the following link www.newcastle-staffs.gov.uk/planning/1400489FUL

Key Issues

Full planning permission is sought for the demolition of part of the existing garage, erection of a single storey rear extension and a detached single garage at the property, which is a two storey semi-detached dwelling located within the open countryside, Green Belt, and within an area of Landscape Enhancement, as indicated by the Local Development Framework Proposals Map. Permission is also sought for works to the visibility splay at the entrance to the driveway.

Planning permission was granted in 2013 for a similar proposal under reference 13/00799/FUL. The current application differs from the previously approved scheme in the following ways:

- The proposed garage now excludes a car port
- The proposed single storey rear extension is now larger than that permitted previously, and would incorporate a living room in addition to the kitchen extension
- The current application does not include the dormer windows as previously permitted
- The previously permitted extension was proposed to be rendered, whereas the extension proposed in the current application proposes brickwork.

The widening of the visibility splay would involve the removal of the corner of the existing raised front garden area, and removal of part of the hedge along the front boundary of the site.

The key issues in the determination of the application are:

- Is the extension appropriate or inappropriate development in the Green Belt?
- The design of the extension
- The impact upon the Area of Landscape Enhancement
- The impact upon Highway Safety
- The impact upon residential amenity
- The impact upon existing trees and hedgerows
- If inappropriate development, do the very special circumstances exist, which outweigh the harm caused to the openness of the Green Belt by the inappropriate development?

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

The National Planning Policy Framework, at paragraph 89, states that the extension or alteration of a building in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces, can be considered to be appropriate development.

The original volume of the dwelling has been calculated at approximately 578.38 cubic metres. The proposed extension and dormer windows under the previous application would have resulted in an increase in volume of approximately 64.3 cubic metres, which represented an 11.1% increase in volume over the original size of the dwelling.

The current proposal would measure approximately 144 cubic metres in volume, which would represent an approximate volume increase of 25 % over the original size of the dwelling.

A 25% increase is considered a proportionate increase in size of the original building, and therefore represents appropriate development in the Green Belt

The engineering works involved in the formation of the improved visibility splay would preserve the openness of the Green and would not conflict with the purposes of including land in Green Belt. As such, in accordance with paragraph 90 of the NPPF it appropriate development.

Turning to the proposed garage, the NPPF states that the replacement of an existing building within the Green Belt, provided the new building is in the same use and not

materially larger than the one it replaces, can be considered to form appropriate development in the Green Belt.

The previous proposal involved the removal of the existing garage, therefore would have represented a replacement building in the Green Belt. The existing garage is not being removed as part of this application; therefore the garage would be a new building within the Green Belt. New buildings for the garaging of cars are not listed as an exception in the Green Belt, therefore the proposed new garage is inappropriate development in the Green Belt, and should not be approved unless very special circumstances exist that would outweigh the harm to openness caused by reason of the inappropriate nature of the development.

The design of the extension and garage

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 H18 of the Local Plan relates specifically to the design of residential extensions and considers that the form, size and location of the extension should be subordinate in design to the original dwelling, the materials and design of each extension should fit in with those of the dwelling to be extended and the extension should not detract materially from the character of the original dwelling or from the integrity of the original design of the group of dwellings that form the street scene or setting.

The proposed single storey rear extension would not be visible within views from the street scene. The design of the extension is considered to be subordinate to the original dwelling in terms of its scale and bulk. It is considered that the extension would not detract from the overall character or appearance of the dwelling, or from the group of dwellings that form the immediate surrounding street scene.

The proposed garage would be finished in weatherboarding and would be located to the side of the dwelling. It is considered an appropriate scale and design, which would not detract from the appearance of the dwelling.

The proposed block plan shows the removal of part of the front boundary hedge. It is considered necessary to ensure the reinstatement of the hedge along the entire front boundary to ensure the satisfactory appearance of the site. It is also considered appropriate to condition replanting of trees to mitigate the loss of the trees removed from the site, through the prior approval of a landscaping scheme to replace those removed from the site.

Overall the extension and garage are considered to be of an appropriate design and appearance, and would accord with Policy H18 of the Local Plan and the aims and objectives of the NPPF.

The impact upon the Area of Landscape Enhancement

The NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The site is within an Area of Landscape Enhancement, and Policy N20 of the Local Plan states that within these areas, the Council will support, subject to other plan policies, proposal that will enhance the character and quality of the landscape. Within these

areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

It is considered that the extension to the dwelling and the garage would not erode the character or quality of the landscape, and overall the proposal is considered to have an acceptable impact upon the area of Landscape Enhancement.

The impact upon Highway Safety

The proposal involves the widening of the access to the site which will improve visibility when exiting the site onto Checkley Lane. The widening of the access would involve removing the corner of the raised front garden. The Highway Authority has no objections to the proposal and overall the proposal is considered acceptable in terms of highway safety.

The impact upon residential amenity

It is important to assess how a proposed development will impact upon residential amenity in terms of loss of light or privacy.

The proposed extension and garage would not cause any loss of privacy or light to any of the neighbouring residents and is therefore considered to comply with the Borough Council's Space Around Dwellings Supplementary Planning Guidance.

The impact upon existing trees and hedgerows

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design.

The Landscape Division of the Borough Council has recommended replacement tree planting and re-planting of the part of the front boundary hedge proposed to be removed. This can be dealt with through a prior to commencement condition.

Overall, provided a suitable landscaping condition is included, the application is considered acceptable in terms of landscaping, and accords with Policy N12 of the Newcastle-under-Lyme Local Plan.

If inappropriate development, do the very special circumstances exist, which outweigh the harm caused to the openness of the Green Belt by the inappropriate development?

As part of the proposal the proposed new garage is considered inappropriate development, there is a requirement for the applicant to demonstrate that very special circumstances exist that outweigh the harm caused by inappropriate development.

A case for very special circumstances has been advanced and is summarised below:

- The approved scheme proved to be uneconomic to develop, so it was considered best to proceed with a single storey extension similar to the adjoining dwelling's extension already approved and constructed. This

comprised of a single garage, clad externally with timber, similar to the approved garage but smaller.

- The existing garage is to be partially demolished but the rear store area retained as it forms part of the rear boundary and will act as a foil to the existing oil tank location. The provision of timber doors off the remaining section of garage will complete the screening of the tank.
- In total the additions to the house are 37 square metres, the approved scheme is 20 sq. m, but the configuration of the roof on the current proposal links the house together in a successful manner and includes the existing external boiler. The previous scheme had not considered this fact. The existing garage is 43 sq., the proposal is to reduce this by 29 sq. m. The proposed new single garage is 20 sq. m. there is an overall reduction of 9 sq. m provided with this new submission.
- It should be noted that this garage is within the permitted development class and could be constructed as such.

A garage of the same dimensions (or larger) in the same location as proposed would be considered to fall within the scope of Class E permitted development rights, as set out in the Town and Country Planning (General Permitted Development) Order (as amended) therefore, even if the garage was removed from the proposal, it could still be constructed using permitted development rights. The permitted development fall-back position that would exist for the construction of a detached outbuilding(s) under permitted development rights is considered to represent a very special circumstance in this case.

This circumstance is considered very special, and overcomes the harm to openness caused by inappropriate development in the Green Belt. The proposal should therefore be permitted.

Background Papers

Planning File

Development Plan

National Planning Policy Framework (2012)

Date report prepared

22nd August 2014

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OLD SPRINGS FARM, STONEYFORD

13/00245/FUL & 12/00068/207C2

The purpose of this report is twofold;

1. To enable the Planning Committee to consider whether the terms of a Section 106 (S106) obligation which the applicant is prepared to enter into and which involves the routeing of vehicles are acceptable and grant planning permission for the retention of an agricultural building for the chopping and storage of miscanthus (application reference 13/00245/FUL) subject to the obligation being completed within an agreed period of time, or alternatively refuse that application.
2. To decide whether enforcement action should be taken with respect to a breach of planning control consisting of the unauthorised construction of a different crop storage barn, not in accordance with the details approved under planning permission reference 09/00085/FUL, and an alleged breach of the routeing agreement secured through a S106 obligation in association with that permission.

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

RECOMMENDATION

(A) (1) Subject to the applicant entering into a S106 obligation by 7th October 2014 that secures a routeing agreement for vehicles transporting miscanthus to and from the building referred to in application 13/00245/FUL,

Permit that application subject to the following conditions:-

a) Within two months of the date of the planning permission details of the re-grading and landscaping of the excavated material or its distribution elsewhere in the site is to be submitted and approved, and implemented within four months of the date of that approval; and

(b) Existing site access to be resurfaced in a bound material for a minimum distance of 10 m rear of the highway boundary and maintained as such; and

(2) That, should the matter referred to in (1) above not be secured in the specified period, the Head of Planning be authorised to refuse the application on the grounds that, in the absence of such an obligation, the development would have a detrimental impact upon highway safety and the amenity of the locality including the enjoyment of the national cycle route, and the character of the Conservation Area through which Tyrley Road passes; or, if he considers it appropriate, agree to extend the period of time within which the obligations can be secured.

B) Unless the applicant entering into a S106 obligation by 7th October 2014 that secures such a routeing agreement for vehicles the Head of Business Improvement, Central Services and Partnerships be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 for the following;

- a. Removal of the building within 6 months.

Reason for recommendation and the taking of enforcement action

The applicant has indicated a willingness to enter into an obligation which restricts the routeing of the vehicles associated with the use of the building that is the subject of application reference 13/00245/FUL. Provided that a suitably worded obligation is secured within a limited, specified period of time it is considered that planning permission can be issued and that any highway safety concerns arising from that development would be suitably addressed.

In the absence of an obligation that similarly restricts the vehicular movements associated with the building that was constructed not in accordance with the approved plans to planning permission 09/0137/FUL it is considered that the development has the potential to have an adverse impact upon highway safety and the amenity of the locality including the enjoyment of the national cycle route, and the character of the Conservation Area through which Tyrley Road passes. Enforcement action is therefore justified unless such an obligation is secured.

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

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

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

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy N17: Landscape Character – General Considerations
Policy N18: Areas of Active Landscape Conservation

Other Material Considerations include:

National Planning Policy

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

Supplementary Planning Guidance/Documents

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

Relevant Planning History

Planning permission was granted in 2009 for a crop storage barn, specifically for the storage of crops that would be used at the Biomass Station at Eccleshall (reference 09/00137/FUL). A S106 obligation was entered into relating to the routing of all heavy commercial and other vehicles travelling to and from the site and the Biomass Station.

Planning permission was granted for a building similar to that within the current, undetermined, application, 13/00245/FUL, but with a different orientation in 2012 (reference 12/00146/FUL).

An application for the retention of use of part of a farm office to an office for use associated with a renewable energy business was permitted in 2013 (reference 13/00244/FUL).

Background Information

In March 2012 an allegation was received that a routing agreement secured through a S106 obligation associated with planning permission 09/00137/FUL was not being adhered to. In addition the question was posed as to whether to use of the building for the storage of miscanthus not derived from the Farm holding amounted to a material change of use requiring planning permission.

Following investigations of the alleged breaches of planning control a number of planning applications were submitted in 2013. The applications included those referenced 13/00245/FUL and 13/00244/FUL referred to above and an application which sought to retain a 3 bay extension (each measuring 24.4m deep by 6.1m wide) to the agricultural storage building permitted under reference 09/00137/FUL. The documentation submitted in support of all these applications indicated that the additional bays were not added to the building that was constructed in accordance with the approved plan. The indication was that during ground work preparation for the construction of the 2009

permission it was decided to build a larger building. It was concluded that the application was therefore for the retention of the larger building, rather than the retention of an extension to an existing building, which required a larger application fee. The applicant did not pay the additional fee required and as such that application was not registered or determined.

Application 13/00245/FUL for the retention of an agricultural building for chopping and storage of miscanthus was reported to the Planning Committee meeting of 4th June 2013. The resolution of the Committee as set out within the minutes is as following:-

(1) That, subject to the applicant entering into a Section 106 obligation by no later than 17 July 2013 to secure a routeing agreement, permission be granted subject to conditions relating to the following:-

(a) Within two months of the date of the planning permission details of the re-grading and landscaping of the excavated material or its distribution elsewhere in the site is to be submitted and approved, and implemented within four months of the date of that approval; and

(b) Existing site access to be resurfaced in a bound material for a minimum distance of 10 m rear of the highway boundary and maintained as such; and

(2) That, should the matter referred to in (1) above not be secured in the specified period, the Head of Planning and Development be authorised to refuse the application on the grounds that, in the absence of such an obligation, the development would have a detrimental impact upon the amenity of the locality including the enjoyment of the national cycle route, and the character of the Conservation Area through which Tyrley Road passes; or, if he considers it appropriate, in consultation with the chair and vice-chair of the committee, to extend the period of time within which the obligations can be secured.

This application has been reported to Committee within the quarterly reports on extensions to time periods within which obligations under Section 106 can be entered into, most recently to the meeting of 26th August. The latest report, in as far as it relates to this matter, is set out below:

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

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

The agreement remains unsecured and the application undetermined.

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

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

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

The update was as follows:

*“With respect to case_ **Application 13/00245/FUL – Old Springs Farm, Stoneyford (HLW Farms)** officers have again written to the agent pressing for a decision by their client, and indicating a fairly close deadline for a response.”*

A response has been received on behalf of the applicant indicating that the obligation should only relate to the site area of application 13/00245/FUL and that to require it to include the site area of application 09/00137/FUL would not meet the tests of the CIL Regulations. In addition as the site area of application 08/0137/FUL is already the subject to a Unilateral Undertaking they do not see how the Council can seek to include that land within this obligation as to do so is both duplication and unnecessary in the circumstances when that land is already bound by a routeing agreement.

Discussion

As indicated above the purpose of this report is twofold and these will be addressed below.

Acceptability of the terms of a S106 obligation which the applicant is prepared to enter into and which involves the routeing of vehicles.

In seeking to agree the wording of the S106 obligation your Officer has sought to ensure that the requirements of the obligation applies to the building that was constructed not in accordance with planning permission 09/00137/FUL which was itself subject to an obligation. The Solicitor acting on behalf of the applicant has indicated that the resolution does not specify that the obligation should apply to the whole agricultural unit and maintain that the applicant is only prepared to enter into an obligation that restricts the routeing of vehicles associated with the building which is the subject of application 13/00245/FUL.

It has been accepted that it would be unreasonable to insist that the whole agricultural unit should be bound by the obligation, although this is the position that has been advanced by a third party. However being mindful that that decision of Planning Committee was made in the knowledge that there was an alleged breach of the existing obligation and an unauthorised building, your Officer has interpreted the resolution of Committee to include the need to bind the building that, had it been constructed in accordance with the approved plan, would have been bound by a similar routeing agreement secured through a Section 106.

The negotiations have reached an impasse at this time and without compromise by the Council it is apparent that the obligation will not be secured. To progress matters it is considered that providing that the obligation is carefully worded and appropriately restricts the routeing of all vehicles transporting miscanthus to and from the building which is the subject to application 13/00245/FUL, that the planning permission should be issued subject to the conditions that Committee resolved should be imposed when the application was initially determined at the meeting of 4th June 2013.

Expediency of any enforcement action with respect to a breach of planning control consisting of the unauthorised construction of a different crop storage barn, not in accordance with the details approved under planning permission reference 09/00085/FUL, and an alleged breach of the routeing agreement secured through a S106 obligation in association with that permission.

As indicated above a larger building than that permitted under planning permission 09/00137/FUL was constructed without the benefit of the required planning permission. The planning permission was therefore never implemented and in your Officer's opinion the terms of the S106 obligation entered into, which sought to restrict the routeing of vehicles associated with the development permitted under the reference 09/00137/FUL, have not been triggered. In any event the routeing agreement secured through the S106 obligation only applied to vehicle movements from the building permitted and the Eccleshall Biomass Station. The applicant has indicated that the Eccleshall Biomass Station no longer uses miscanthus and as such there are no vehicle movements to that facility. As the obligation does not apply to vehicle movements from the building to other facilities it is not being breached even if it had taken effect.

Consideration is given, below, to the expediency of taking action in respect of the unauthorised building.

Paragraph 207 of the National Planning Policy Framework details that *“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control..”*

As with planning applications if a LPA addresses immaterial considerations that opens the LPA to the complaint that its decision to take enforcement action is not well-founded. A decision to take enforcement action must not be based on irrational factors; or taken without consideration of the relevant facts and planning issues; or based on non-planning grounds.

The decisive issue is always whether the alleged breach of planning control is unacceptably affecting public amenity or the existing use of land or buildings meriting protection in the public interest. It could never be that a planning application has not been submitted, The Committee should not take into account the decision of the owner not to apply for planning permission, but rather they should concentrate on coming to a view as to whether the development is unacceptable or not in planning terms. In effect the Committee should consider the matter as if it had before it an application for planning permission – a so called “deemed planning application”.

This means that if the Committee were to come to the view that the development is acceptable then it should not authorise the issue of an Enforcement Notice, even though no planning application has been made to the Authority.

Alternatively if the Committee were to come to the view that the development can be made acceptable by the imposition of conditions the Committee should authorise the issue of an Enforcement Notice but only one which, by reason of the steps that it requires the offender to take, in effect grants a conditional planning permission for the development.

Finally if the Committee were to come to the view that the development is unacceptable on planning grounds and cannot be made acceptable by the attachment of conditions only then should it authorise the issue of an Enforcement Notice requiring the removal of the unauthorised building.

In granting planning permission under reference 09/00137/FUL it was concluded that there was the potential for delivery vehicles to adversely affect highway safety. In accordance with the advice of the Highway Authority, to protect highway safety and to minimise the effect of the development on the users of National Cycle Route no. 75 it was deemed necessary to secure a routing agreement so that the vehicles would travel along the most preferential route. There has been no material change in circumstances that would lead to the conclusion that such restrictions are no longer necessary or reasonable particularly when it is noted that the building is larger and as such is likely to result in more vehicle movements than were anticipated in association with the permitted building.

The appropriate method for securing such a routing agreement is through a S106 obligation. The applicant has not, at this point in time, indicated a preparedness to enter into such an obligation other than in respect of the building which is the subject of planning application 13/00245/FUL and in the absence of such a routing agreement the building is considered to be unacceptable and the taking of enforcement action is the only option available to the Council to address the highway safety implications that arise from the development.

As this is not a matter that could be addressed through the imposition of conditions the recommended steps to remedy the harm caused by the unauthorised development is its demolition. The alternative step of requiring the cessation of the use of the building for the chopping and storage of miscanthus is not recommended. This would result in the retention of a building with no clear use and any agricultural use that the building may be put to may result in similar highway safety concerns.

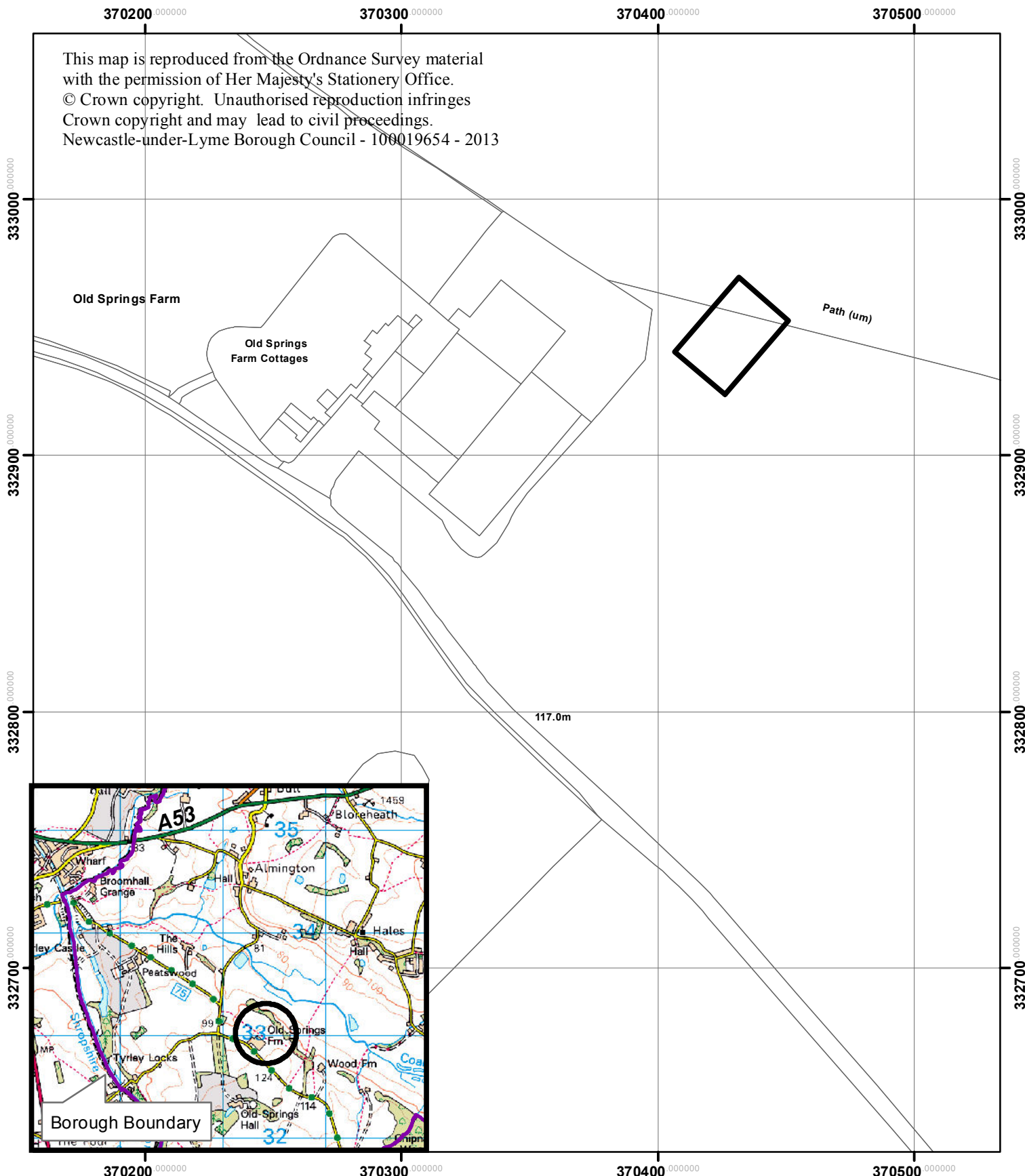
Background Papers

Planning File referred to
Planning Documents referred to

Date report prepared

3rd September 2014

Old Springs Farm, Stoneyford 13/00245/FUL



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Newcastle-under-Lyme Borough Council - 100019654 - 2013

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Technical consultation on Planning

Proposed response to a Government Consultation

Purpose of the Report

To advise members of a 'technical' consultation by the Government on Planning and to provide the Committee with an opportunity to make comments to the Government in response to this consultation

RECOMMENDATION

That the Head of Planning and Development in consultation with the Chairman and Vice Chairman draws up and submits responses to the questions posed by the Government on the basis of the views indicated in this report and any other comments agreed by the Committee

That a future report be brought to the Planning Committee on the scope for and implications of the use of additional Article 4 Directions

This very detailed Technical Consultation Paper on Planning, with some seventy six questions posed of consultees, outlines a number of significant changes the Government proposes to make to the planning system including:-

1. Proposals to change the Neighbourhood Planning system.
2. Significantly extending permitted development rights to reduce the number of proposals requiring planning permission from the Local Planning Authority.
3. Proposals to improve the use of planning conditions.
4. Proposals to improve engagement with statutory consultees.
5. Raising the screening threshold for when an Environmental Impact Assessment (EIA) is required for industrial estate and urban development projects, which are located outside of defined sensitive areas.
6. Proposals to improve the nationally significant infrastructure planning regime amending regulations for making changes to Development Consent Orders, and expanding the number of non-planning consents which can be included within Development Consent Orders.

The consultation document is available to view via the following link

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/339528/Technical_consultation_on_planning.pdf

This report focuses on the changes the Government plan to make to the planning system by the extension of permitted development rights (section 2) and proposals to improve the use of conditions (section 3). It briefly discusses the possible implications of these changes for Newcastle.

The Government have asked for comments on this consultation paper to be received by **Friday 26 September 2014**.

Section 2 Reducing planning regulations to support housing, high streets and growth

This section of the consultation paper seeks views on the Government's proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended).

The stated intention is to "set out proposals to expand permitted development rights, further reducing red tape and supporting housing and growth" and that the "proposals will help ensure that the planning system is proportionate and a planning application is only required where this is genuinely justified". In brief the proposal is to grant permitted development rights to allow change of use from light industrial units, warehouses, storage units, offices and some sui generis uses to residential; more change of use within the high street, including a wider retail use class; and some sui generis uses to restaurants and leisure uses;

This section of the consultation also seeks views on proposals to make permitted retailers to altering their premises, commercial filming, larger solar panels on commercial buildings, extensions to houses and commercial premises etc. Details of the proposed changes are contained within the attached Appendix A.

The overall effect of these changes to permitted development rights is to reduce the ability of both the Council and by extension the local community to shape development in its area. The Council is able to impose an Article 4 direction removing permitted development rights but there are financial implications in doing this, both in terms of the resources directly involved - the procedure that has to be gone through is, despite some changes, cumbersome and convoluted - and the potential compensation implications.

This is an area of development management which the Council is going to have to address and it has not done so in a coordinated manner to date.

Whilst in some cases the need to obtain planning permission (for a particular change of use) has been replaced by a need to go through a prior approval procedure, these prior approval procedures allow consideration of a much narrower range of issues than would have been the case with an application for planning permission. For example there are concerns whether the prior condition approval process will enable the Council to place conditions on such approvals relating to ground conditions. At the moment permissions for sites with previously potentially contaminative uses, which include dry cleaners, warehousing and light industrial etc. changing to a sensitive use such as housing would probably attract a condition in respect of ground contamination.

Allowing uses such as light industrial and warehousing to convert to residential use will increase financial pressures on the Council and other public sector providers such as the County Council for the services and facilities that residents will need but the Council will be unable to seek financial contributions for their provision via planning (Section 106) obligations. Depending upon the take up of these rights this could have significant implications for the Borough.

Finally there are also financial effects (for the local planning authority) of these changes. The fee for a change of use application at present is £385. In contrast for a change of use application where prior approval is required a fee of £80 is payable. In terms of the resources required to administer a prior approval application they may be less but not by such a proportion. Where the permitted development is for change of use and allows for some physical development and prior approval is required a fee of £172 will apply, including change of use from sui generis to residential. Where a prior approval is required to carry out physical development the Government intend to introduce a fee of £80, including for the erection of a structure in a retail car park or the installation of solar panels on a non-domestic building.

Section 3: Planning Conditions

Section 3 of the consultation paper states that: 'too many overly restrictive and unnecessary conditions are attached routinely to planning permissions, with no regard given to the additional costs and delays on sites which have already secured planning permission.'

The Government has identified two issues

Firstly a tendency of local planning authorities to impose too many conditions at the decision making stage

Secondly local planning authority delays in discharging conditions (the determination of applications for approvals of details required by conditions of permissions and consents)

With respect to the former, the evidence that there is a problem appears to be based upon individual examples rather than on research. Nevertheless appropriate and reasonable reference is made to the need to ensure that conditions are imposed only where they meet the 6 tests in the National Planning Policy Framework and the associated point is made that it is important to have effective dialogue between the LPA and the applicant about how conditions will impact upon the planned delivery of development. The government expresses particular concern about the use of what are termed "pre-commencement" conditions – ones that prevent any development authorised by the planning permission taking place until detailed aspects of the development have been approved formally by the Local Planning Authority.

With respect to the second issue the government say that the feedback they are receiving is that some local planning authorities do not prioritise discharging conditions, and they refer to evidence gathered in 2008 that half of the applications to discharge planning conditions took longer than 6 weeks to determine.

As members will be aware at the Borough Council we have been, as part of the wish to provide an end to end service measuring our performance with respect to the speed with which such applications are determined, and the performance has indeed been very variable. If it is possible, some information on our performance relative to the above figure will be provided to help members appreciate the local context in Newcastle.

The Government, having listed all of the actions it has already taken, proposes tackling this by:

1. Creating a 'deemed discharge' for certain types of conditions where the LPA does not make a timely decision: this would mean that if the LPA does not discharge conditions within the specified period (initially six weeks from the day after the application to discharge the condition was received by the LPA) then the applicant may regard that matter as being approved or consented by the LPA – this will be introduced via enabling powers in the Growth and Infrastructure Bill.
2. Reducing the time limit for the return of the fee for applications for confirmation of compliance with conditions attached to planning permissions (currently 12 weeks)
3. Requiring that LPAs share draft conditions with applicants for major developments before making a decision: this would be enacted by amending the Development Management Procedure Order and, according to the Government, would be in line with existing best practice
4. Requiring LPAs to justify pre-commencement conditions: LPAs will need to provide a written justification for imposing each pre-commencement condition, *over and above* the existing general justification for using conditions – this will also be introduced via the Development Management Procedure Order.

As to how the Council should respond to these proposals there are clear resource implications – namely if the work has to be done within a shorter period or if additional work has to be done, staffing and systems within LPAs will need to be in place to deal with demands that are not that predictable in their timing. Beyond that the proposals – for example to introduce new legislative requirements about consultation with applicants on draft conditions and the need to provide a written justification of any pre-commencement condition

all are indicative of a view that Local Planning Authorities are incapable of adopting best practice unless they are forced, by legislation, to do so.

Paradoxically introducing a “deemed discharge” i.e. automatic approval after a certain number of weeks will also shorten the opportunity to have a discussion with the applicant about resolving outstanding issues relating to conditions and paradoxically rather than speeding up the process of approval is likely to mean that more submissions will be refused by the Authority.

Technical consultation on planning : Proposed changes to permitted development rights

From Use Class	To Use Class	Details/Proposed Restrictions
<p>A. Light industrial units (B1c use) and warehousing, storage and distribution buildings (B8 use)</p>	<p>Residential use (C3 use).</p>	<p>Buildings in use at the time of the 2014 budget Prior approval process (similar to that for the permitted change of use from an office to residential use) covering flooding, transport, contamination and noise proposals. Government also consulting on whether prior approval process needs to consider the impact of a residential use being introduced into an existing industrial/employment area. Developments on or in the following types of structures or areas excluded -Listed buildings and land within the curtilage; -Scheduled monuments and land within the curtilage; -Sites of Special Scientific Interest; -Safety hazard areas; -Military explosives storage areas</p>
<p>B. Sui generis uses such as laundrettes, amusement arcades /centres, casinos and night clubs.</p>	<p>Residential use (C3 use).</p>	<p>Buildings in use at the time of the 2014 budget • Enable limited external modifications sufficient to allow for the conversion to residential use; • Prior approval in respect of transport & highways impacts, contamination risks & flooding risks; • Potentially include, subject to consultation, a prior approval in respect of the design and external appearance of the building; • Potentially include, subject to consultation, a limit on the amount of floor space that can change to residential use; • Not to apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, designated conservation area, and land within World Heritage Sites); Developments on or in the following types of structures or areas listed in A above excluded.</p>

From Use Class	To Use Class	Details/Proposed Restrictions
C. B1 (a) Office	Residential use (C3 use).	<p>Temporary permitted change from 30 May 2013 to 30 May 2016 (although some areas are exempted from this change) to become permanent.</p> <p>-Prior approval process will continue to consider the impact of the proposed development in relation to highways and transport, flooding and contamination</p> <p>- An additionally prior approval will now consider the potential impact of the significant loss of the most strategically important office accommodation. To ensure that the ability of the policy to deliver much needed new housing is not undermined, this will be a tightly defined prior approval, and the Government invite suggestions about the specific wording.</p> <p>Developments on or in the following types of structures or areas listed in A above excluded</p> <p>The Government is also proposing to extend the time limit for completion for developments with prior approval from 30 May 2016 to 30 May 2019.</p>

Details of Proposal	Neighbour Consultation	Proposed Restrictions
<p>D. Extensions to Dwellings</p> <p>Permitted development rights for householders introduced in May 2013, initially for a three-year period are to be made permanent.</p> <p>The new rights increased the size limits allowed for single storey rear extensions on dwelling houses.</p> <p>- A householder single storey rear extension or a conservatory that extends beyond the rear wall by between four metres and eight metres for a detached house, and by between three metres and six metres for any other type of house is permitted development</p>	<p>To ensure the impact of larger extensions on the amenity of neighbours was considered, the Government introduced a 'light touch' neighbours' consultation scheme. If adjoining neighbours object to a proposed extension the Council has to consider whether the impact on the amenity of the neighbours is acceptable before giving prior approval. The prior approval must be determined within 42 days, quicker than a householder planning application eight weeks (52 days).</p> <p>;</p>	<p>The permitted development will not apply in a conservation area; Development on or in sites of Special Scientific Interest will be excluded.</p> <p>The deadline to complete an extension using the existing temporary permitted development rights by May 2016 will be removed.</p>

		Details/Proposed Restrictions
<p>E. Increasing flexibilities for high street uses</p> <p>Merger of the existing A1 shop use class of shops, hairdressers, post offices etc. with the existing A2 Financial and Professional Services Use Class of banks, building society offices, estate agents, solicitor's, accountants, employment agencies etc.</p>	<p>New A1 use class</p> <p>Notes: The proposed new A1 use class merging former use classes A1 and A2 will mean planning permission is not required for a change of use from a shop to a bank and vice versa</p>	<p>Betting shops and pay day loan shops will not form part of the wider A1 retail use class but remain within the A2 use class and planning permission will be required for any change of use to a betting shop or a pay day loan shop.</p> <p>NB. It will be possible under the proposed changes to permitted development rights to change the use of betting shops and pay day loan shops (A2), restaurants and cafés (A3) drinking establishments (A4), and hot food takeaways (A5) to A1 shop use.</p>
<p>F. Support a broader range of uses on the high street</p> <p>Permit the change of use of A1 and A2 premises and (ii) laundrettes, amusement arcades/ centres, casinos and nightclubs</p>	<p>To Restaurants and cafés (A3)</p>	<ul style="list-style-type: none"> • Applies to any premise in A1 or A2 use and to laundrettes amusement arcades, centres, casinos and night clubs. Has a size threshold of 150 sq.m so as to focus on smaller premises found on the high street and in town centres; • Prior approval in the form of a neighbour notification scheme, which will allow those immediately adjacent to the property (next to, above and at the rear) to make representations to the local planning authority in respect of the impact of the proposed change of use on local amenity, covering issues such as noise, odours, traffic and hours of opening. • <u>The Local Planning Authority will be able to consider such matters under prior approval only when neighbours object;</u> • Provide safeguards where the retail premises is a

		<p>local service, or its loss will have an adverse impact on the shopping area;</p> <ul style="list-style-type: none">• Developments on or in the following types of structures or areas listed in A above excluded e.g. (Listed buildings, Scheduled Monuments) or in certain areas (Sites of Special Scientific Interest)
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From Use Class	To Use Class	Details/Proposed Restrictions
<p>G. Supporting the diversification of leisure uses on the High Street (recommendation of the Portas Review)</p> <p>Permits the change of use from A1, A2 and some sui generis uses laundrettes, amusement arcades/ centres and nightclub.</p>	<p>To Assembly and leisure (D2) such as cinemas, music and concert halls, gyms, and swimming pools</p>	<p>A1, A2 and relevant sui generis uses, must have been in use at the time of the Autumn Statement 2013</p> <p>The right will:</p> <ul style="list-style-type: none"> • Apply to any premises in A1 or A2 laundrettes, amusement arcades/ centres and nightclubs; • Exclude any size restriction; • Have a prior approval in respect of transport and highways, parking, and noise which would allow the local planning authority to consider the impacts of the change of use on local amenity <ul style="list-style-type: none"> • Not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, designated conservation area, and land within World Heritage Sites); <p>The same exceptions from development of certain structures (listed buildings, Scheduled Monuments) or in certain areas (Sites of Special Scientific Interest) that apply to proposals for a change of use from light industrial and warehousing to residential use (see A above) will also apply to these proposals.</p>

Proposed Change	Details of Proposal and Proposed Restrictions
<p>H: Expand facilities to existing retailers</p> <p>To help retailers adapt to online shopping preferences the Government propose that: retailers can construct small, ancillary buildings which could facilitate 'click and collect' services.</p>	<ul style="list-style-type: none"> • Shops can erect ancillary buildings within the curtilage of their existing premises, including the car park; • Buildings should not exceed four metres in height and have a cumulative gross floor space of up to 20 square metres; • Buildings cannot be erected within two metres of a boundary of the curtilage of the shop; • If the building is erected between the shop front and a highway the distance from the new building to the boundary must be more than five metres; • Prior approval to consider the design, siting and external appearance of any new structure; • permitted development should not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, designated conservation area, and land within World Heritage Sites); • The same exceptions from development of certain structures (listed buildings, Scheduled Monuments) or in certain areas (Sites of Special Scientific Interest) that apply to proposals for a change of use from light industrial and warehousing to residential use (see A above) will also apply to these proposals.
<p>Mezzanine Floors</p>	<p>Existing regulations allow most retailers to build an internal mezzanine floor in their premises up to 200 square metres without requiring a planning application. The Government are asking if the permitted development right allowing shops to build internal mezzanine floors should be increased from 200 square metres. This is intended to give greater opportunity for retailers to make best use of their existing premises and to diversify their retail offer to support the town centre.</p>

Proposed Change	Details of Proposal and Proposed Restrictions
<p>Preventing Maximum Parking Standards</p>	<p>Government inquiring if more action is needed to tackle on –street parking problems and if local authorities are stopping builders from providing parking spaces. Asks if parking policy needs to be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards.</p>
<p>I. Permitted development right for Film and Television companies</p>	<p>The aim of this proposal is to ensure it is easier to use buildings and land as temporary locations for commercial filming. The Government proposes that the new right will be conditional on:</p> <ul style="list-style-type: none"> No demolition, excavation, physical alteration of an existing building or other engineering works; No overnight temporary sleeping accommodation; Land and buildings to be reinstated to their original condition before the change of use as soon as it is reasonably practical to do so; Outside sets to have a maximum height limit in the region of 10 metres from the ground. <ul style="list-style-type: none"> • Have a prior approval to cover highways and transport, a travel plan, noise and light; <p>be conditional on:</p> <ul style="list-style-type: none"> No demolition, excavation, physical alteration of an existing building or other engineering works; No overnight temporary sleeping accommodation; Land and buildings to be reinstated to their original condition before the change of use as soon as it is reasonably practical to do so; Outside sets to have a maximum height limit in the region of 10 metres from the ground. <ul style="list-style-type: none"> • Have a prior approval to cover highways and transport, a travel plan, noise and light; • Rights to not apply Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, designated conservation area, and land within World Heritage Sites); , • The same exceptions from development of certain structures (listed buildings, Scheduled Monuments) or in certain areas (Sites of Special Scientific Interest) that apply to proposals for a change of use from light industrial and warehousing to residential use (see A above) will also apply to these proposals.

J. Solar PV Panels for Commercial properties

Government propose new permitted development right for the installation of photovoltaic panels (solar PV) up to 1MW on the roof of non-domestic buildings.

Permitted development rights for the installation of micro-generation solar equipment on non-domestic buildings up to a capacity of 50kW were introduced in 2012. The installation of solar panels above 50kW currently requires a full planning application to the local planning authority.

The Government proposes to introduce a new permitted development right to support the installation of photovoltaic panels (solar PV) on non-domestic buildings with a capacity up to one megawatt (20 times the current capacity) without a planning application to the local authority. This right would:

- Apply to all non-domestic buildings, as with the existing permitted development rights for installation of solar PV;

Have a prior approval process to consider the siting and design, in order to minimise the impact of glare on neighbouring or overlooking properties from the larger array of solar PV;

- Apply only to the roof of non-domestic buildings. As with the existing right, there will be restrictions on the protrusion of the panel beyond the roof slope and the height of solar PV equipment;
- Not be permitted (as with the existing permitted development right) on a roof slope which fronts a highway in Article 1(5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- The same exceptions from development of certain structures (listed buildings, Scheduled Monuments) or in certain areas (Sites of Special Scientific Interest) that apply to proposals for a change of use from light industrial and warehousing to residential use (see A above) will also apply to these proposals.

Proposed Change	Details of Proposal and Proposed Restrictions
<p>Extensions to Business premises</p>	<p>New permitted development rights introduced for businesses in May 2013, increasing the size limits allowed for extensions to shops, financial and professional services, offices, warehouses and industrial premises to be made permanent .</p> <ul style="list-style-type: none"> • Shops (A1) and financial/professional services (A2) can extend their premises by up to 100 square metres provided the gross floor space of the building is not increased by more than 50%; • These extensions to shops and financial services can be built up to the boundary, unless that boundary is with a dwelling house where a two metre gap must be left; • Offices (B1(a)) can extend their premises by 100 square metres, provided the gross floor space of the building is not increased by more than 50%; • New industrial or warehouse buildings of up to 200 square metres can be built within the curtilage of an existing industrial or warehouse building; • The gross floor space of the existing industrial or warehouse building can be increased by up to 50%; • The permitted development right will not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, designated conservation area, and land within World Heritage Sites); ; • Development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration: Land within the curtilage of a listed building; Sites of Special Scientific Interest; • The deadline to complete an extension using the existing permitted development rights by May 2016 will be removed.
Proposed Change	Details of Proposal and Proposed Restrictions
<p>Permitted development rights for waste management facilities</p>	<p>Permitted development rights for waste management facilities currently sui generis, by enabling the carrying out of operations for the replacement of any plant or machinery and buildings on land within the curtilage of a waste management facility and which is ancillary to the main waste management</p>

	<p>operation. Such development may only take place without the need for a planning application if:</p> <ul style="list-style-type: none"> • Where in equipment being replaced, there is no more than a 15% increase in the footprint of the plant or machinery that is subject to replacement • The replacement building, plant or machinery does not exceed the existing facilities currently on site by more than 50% or 100 square metres, whichever is the smaller. <p>The permitted development right will not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, designated conservation area, and land within World Heritage Sites); .</p> <ul style="list-style-type: none"> • Development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration: Listed buildings and land within the curtilage; Scheduled monuments and land within the curtilage; Sites of Special Scientific Interest.
<p>Equipment housings for sewerage undertakers</p>	<p>The aim of this proposal is to remove some unnecessary restrictions on minor operational development by sewerage undertakers.</p> <p>The main permitted development rights for water undertakers are very similar to those for sewerage undertakers. However, while water undertakers have a right for “the installation in a water distribution system of a booster station, valve house, meter or switch-gear house”, there is no equivalent right for sewerage undertakers.</p> <p>The Government’s view is that are no strong planning grounds why sewerage undertakers should have to make planning applications for equipment housings at sewage works but not for the equivalent housings at water treatment works. This causes unnecessary work and expense for both the sewerage undertakers and local planning authorities.</p> <p>The proposed that a permitted development right equivalent to that for water undertakers should apply to sewerage undertakers. This would allow sewerage undertakers to carry out the installation of a pumping station, valve house, control panel or switchgear house into a sewerage system. The rights will be subject to the same “development not permitted” limitation as set out for water undertakers, that is, a limit of 29 cubic metres in capacity for any installation that is carried out at or above ground level or under a highway used by vehicular traffic.</p>

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APPEAL BY MR C HIGNETT AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONVERSION AND CHANGE OF USE OF A FORMER BARN TO RESIDENTIAL MARKET HOUSING AT MOSS HOUSE FARM, EARDLEY END ROAD, BIGNALL END

<u>Application Number</u>	13/00755/FUL
<u>LPA's Decision</u>	Refused by delegated powers 25th November 2013
<u>Appeal Decision</u>	Allowed
<u>Date of Appeal Decision</u>	27th August 2014

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 13/00755/FUL) and the following is only a brief summary.

The Inspector considered the main issues to be whether the proposal would provide a suitable site for development having regard to policies which seek to protect the countryside and achieve sustainable patterns of development, and the effect of the proposed rooflights on the character and appearance of the host building and the surrounding area. In allowing the appeal, the Inspector made the following key comments:

- The Council considers the scheme to be not inappropriate development in the Green Belt and therefore raises no objections to the scheme in terms of its impact on the Green Belt. The Inspector agreed with this conclusion.
- Paragraph 55 of the Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. LPAs should avoid new isolated homes in the countryside unless there are special circumstances. These include development which would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.
- The proposed houses would be grouped with the existing cluster of development but they would nevertheless be isolated in the countryside in terms of their urban location in relation to nearby settlements. The site is beyond the major urban area of North Staffordshire and is not within a rural service centre. The village of Audley is some 3.5km away and Alsager around a 10 minute drive. In practical terms, opportunities for the use of public transport, walking and cycling would be limited and the future occupiers of the houses would be likely to be reliant on the use of the private car.
- That said the current run down and derelict appearance of the barn would be significantly improved as a consequence of the proposal. Additionally a former hay barn has already been removed from the site, and the proposal would result in the removal of a further substantial concrete block structure formerly used as a vehicle repair garage. Although this is generally agricultural in appearance and not untypical of a rural area, it is large and relatively modern and functional in appearance. Its removal would result in an increase in openness within the site in this part of the Green Belt. Additionally some of the existing areas of hard standing would be replaced by landscaping.
- The re-use of the appeal building and the tidying up of its appearance, along with the visual enhancements to the wider site arising from the loss of the existing building and increase in openness, would be an improvement in visual terms. This would contribute positively to the attractiveness of the site. The Inspector concluded that the proposal would result in an enhancement to the immediate setting of the barn and the wider Moss Farm complex of buildings and thus, would meet the special circumstances set out in Paragraph 55 of the Framework.
- The proposal would therefore provide a suitable site for development having regard to policies which seek to protect the countryside and achieve sustainable patterns of development.
- The originally submitted plans show the insertion of 31 rooflights and the Inspector agreed with the Council that their significant number and regular arrangement would have an unduly adverse impact on the rural character of the building and the surrounding area. The rooflights would appear too numerous and as significant and

incongruous features on the modest roof planes of the barn. This would be so despite the existing boundary planting and the rooflights permitted to the adjoining holiday accommodation.

- As part of the appeal the appellant has put forward alternative plans showing the number of proposed rooflights reduced to 20 along with the provision of 8 sun pipes. On balance, the more modest number of rooflights would not appear unduly out of place or unsympathetic to the surrounding rural area.
- The Inspector concluded that the appeal should be allowed subject to conditions.

Recommendation

That the decision be noted

DECISION

Report to planning committee

COMMITTEE: Planning Committee

TITLE: Town & Country Planning Act 1990
Town & Country Planning (Tree Protection)
(England) Regulations 2012
Tree Preservation Order No.1536 (2014)
Land at Main Road Betley and New Road
Wrinehill.

SUBMITTED BY: Head of Operations

1 Purpose

- 1.1 To advise members of the Planning Committee that the above order was made using delegated powers on 11th April 2014, and to seek approval for the Order to be confirmed as made.

2 Background

- 2.1 The Order protects trees situated along the road corridor of Main Road to the south of Betley and New Road through Wrinehill (A531). The Order was made to safeguard the longer term visual amenity that the trees provide after trees along the section of road south of the Betley Conservation Area were felled and inappropriately pruned.

3 Issues

- 3.1 The trees are mature, predominantly deciduous, mixed species and clearly visible from Main Road and New Road. They are key trees to the road corridor, 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 individual sites but also to the locality.
- 3.2 Arising from concern that several trees along this section of road had been felled in recent months and years a Ward Councillor requested that an assessment be carried out with a view to protecting important trees from future risk.
- 3.3 Your officers carried out a survey of the trees along the road corridor in March 2014 and made a TPO assessment. 20 individual trees and 5 groups of trees were found to be worthy of an Order. They are all considered to be in reasonable health, visually significant and an amenity to the locality, with the prospect of continuing to provide this for many years. The Order was made and served on 11th April 2014 in order to protect the long term well-being of the trees.

3.4 Two representations have been received.

The first is from the owner of Whinshiels, Main Road who is concerned that the birch tree on the property is 10 to 11 metres high, within 7m of the house and 1.2m of the main sewer. The root system is causing some lifting of the adjacent paving.

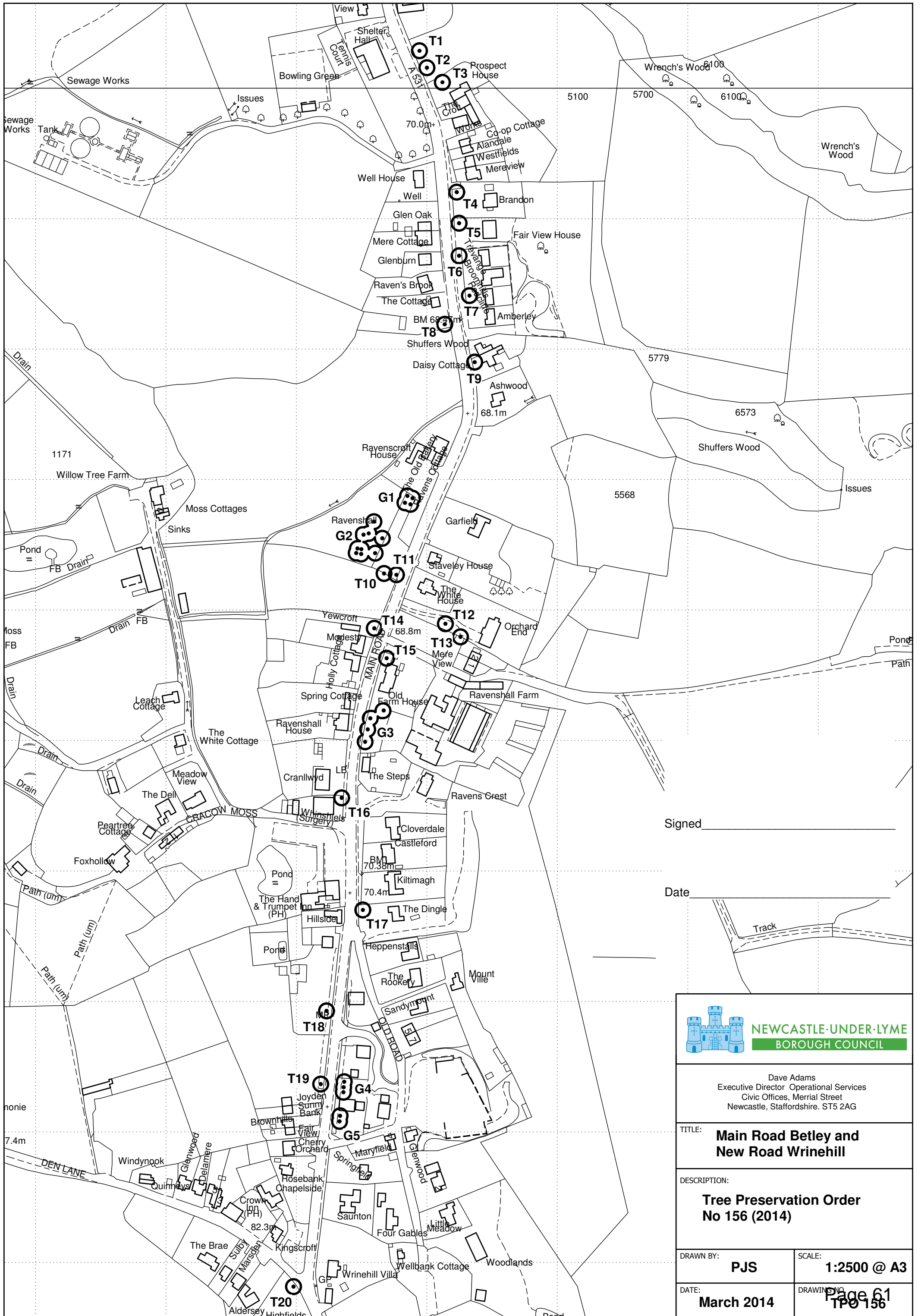
The second is from the owner of Daisy Cottage, Main Road, concerned that the cedar tree on the property requires regular pruning back from the pavement and to clear visibility when coming out of their drive, and requesting that the tree is excluded from the Order or that permission is given to keep it pruned on a regular basis.

Your officers consider that both of these trees can be managed in their locations and that applications can be made when work is required to manage them as necessary. If in the future problems do arise the necessary remedies can be actioned then.

3.5 Your officers are of the opinion that the longer-term visual amenity of the trees on the road corridor is best secured by the making of a Tree Preservation Order. 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. The making of the Order will not prevent the owners from carrying out good management of the trees, 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 owners will be able to apply for permission to carry out maintenance work to the trees and if in the future the trees do deteriorate in condition the owner will be able to apply for permission to carry out work which is necessary to safely manage them.

4 Recommendation

4.1 That Tree Preservation Order No 156 (2014), land at Main Road Betley and New Road Wrinehill, be confirmed as made and that the owners of the individual properties be informed accordingly.



Signed _____

Date _____



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

TITLE: **Main Road Betley and New Road Winehill**

DESCRIPTION:
Tree Preservation Order No 156 (2014)

DRAWN BY: **PJS**

SCALE: **1:2500 @ A3**

DATE: **March 2014**

DRAWING NO: **Page 61 TPO 156**

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DECISION

Report to planning committee

COMMITTEE: Planning Committee

TITLE: Town & Country Planning Act 1990
Town & Country Planning (Tree Protection)
(England) Regulations 2012
Tree Preservation Order No.157 (2014)
Land adjacent to Rowley House, Moss
Lane, Madeley. CW3 9NQ.

SUBMITTED BY: Head of Operations

1 Purpose

- 1.1 To advise members of the Planning Committee that the above order was made using delegated powers on 9th April 2014, and to seek approval for the Order to be confirmed as made.

2 Background

- 2.1 The Order protects trees situated on land to the south of Rowley House, Moss Lane, Madeley and to the north of the neighbouring property, The Moss. The Order was made to safeguard the longer term visual amenity that the trees provide after trees were felled on the site in relation to a planning application which was received for the building of 42 dwellings on the site and the two fields to the west.

3 Issues

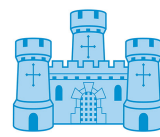
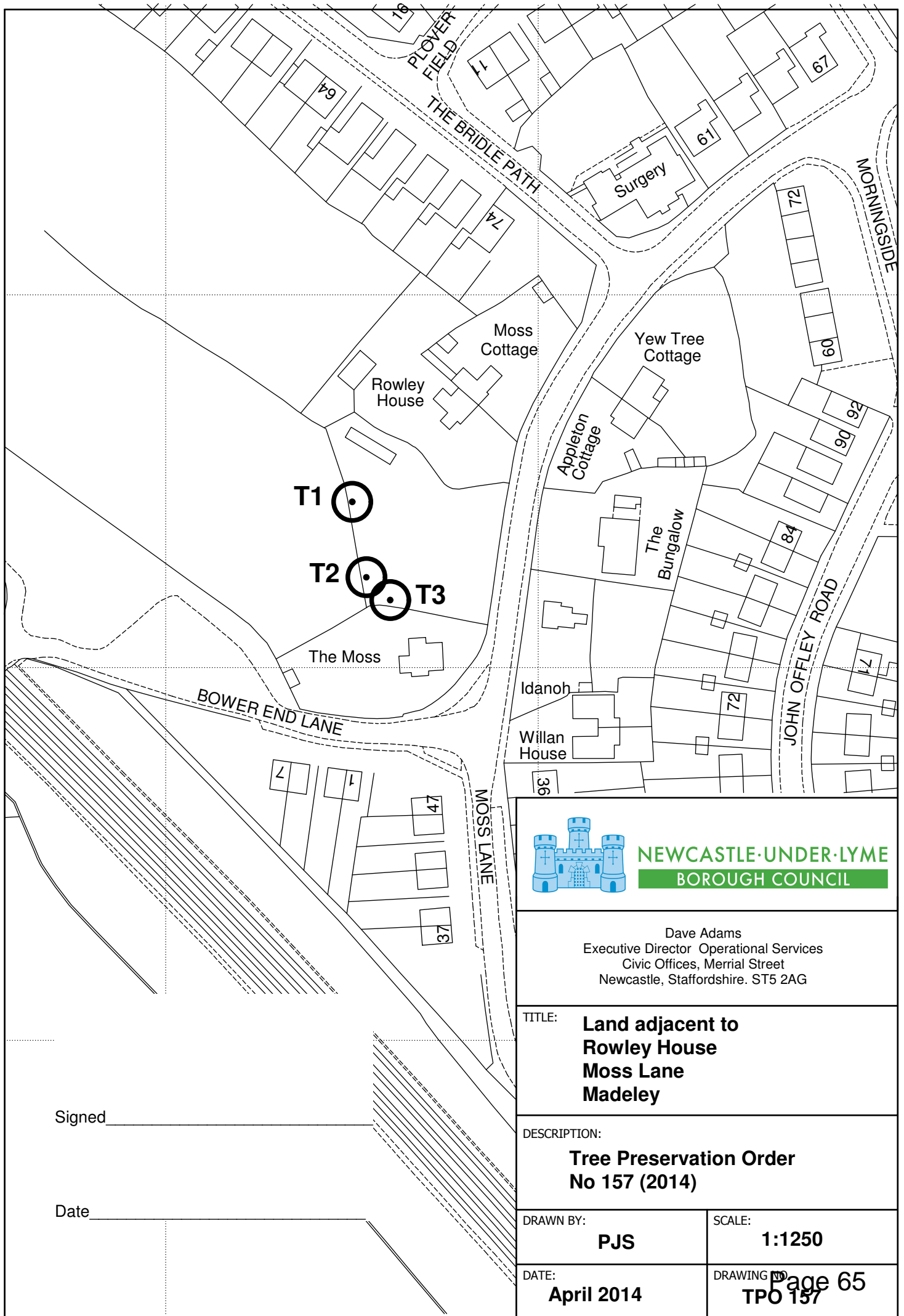
- 3.1 The trees are situated in the grounds to the south of Rowley House. They are three individual single stemmed deciduous trees located towards the western boundary of the plot. They are mature and clearly visible from Moss lane.
- 3.2 The trees are a significant feature to the locality and provide 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 planning proposal is for the access to the development to pass through the site and the trees will have a high amenity value in respect to this.
- 3.3 A planning application was received in January 2014 with a view to building 42 dwellings on the site. Trees shown to be retained as part of the development were felled in March 2014 giving rise to concern that more could be felled.

3.4 Your officers inspected all of the trees on the site in April 2014 and carried out a TPO assessment, and found three trees worthy of an Order. They are considered to be in reasonable health, visually significant and an amenity to the locality, with the prospect of continuing to provide this for many years. The Order was made and served on 9th April 2014 in order to protect the long term well-being of the trees. No representations were received.

3.5 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. 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. The making of the Order will not prevent the owner from carrying out good management of the trees nor progressing plans to develop 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.

4 Recommendation

4.1 That Tree Preservation Order No 157 (2014), land adjacent to Rowley House, Moss Lane, Madeley, be confirmed as made and that the owners of the site be informed accordingly.



NEWCASTLE·UNDER·LYME
BOROUGH COUNCIL

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

TITLE: **Land adjacent to
Rowley House
Moss Lane
Madeley**

DESCRIPTION: **Tree Preservation Order
No 157 (2014)**

DRAWN BY: **PJS**

SCALE: **1:1250**

DATE: **April 2014**

DRAWING NO: **Page 65
TPO 157**

Signed _____

Date _____

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DECISION

Report to planning committee

COMMITTEE: Planning Committee

TITLE: Town & Country Planning Act 1990
Town & Country Planning (Trees)
Regulations 1999
Tree Preservation Order No.157 (2014)
Tree Preservation Order No 157 (2014)
Trees at 23 Church Lane Mow Cop

SUBMITTED BY: Head of Operations

1 Purpose

- 1.1 To advise members of the Planning Committee that the above order was made using delegated powers on 8th April 2014 and to seek approval for the Order to be confirmed as amended.

2 Background

- 2.1 In April 2014 your officers received a telephone call and an email from a neighbouring resident expressing concern that mature roadside trees were being felled at 23 Church Lane, Mow Cop.
- 2.2 Your officers inspected and found that several of the remaining roadside tree were worthy of an order. An Interim Tree Preservation Order was made on 8th April 2014 in order to safeguard the long-term visual amenity that the trees provide, following concern for their future from a threat of felling.
- 2.3 The trees are clearly visible from Church Lane and Moorland Road.
- 2.4 The trees make an important present and future contribution to the area and the loss of these trees would have a detrimental effect on the visual amenity, not only of the site but also the locality.
- 2.5 From an initial ground inspection from publically accessible positions, the trees were of a sufficient quality to be retained.
- 2.6 Following the order being served, additional calls were received from neighbours who were concerned that tree felling was continuing.
- 2.7 Your officers made a second visit on 14th April 2014 and found that a further two trees (T3 and T4), covered by the order had been felled. Upon visiting the property the owner stated that he was unaware that a Tree Preservation Order had been served on the property 6 days previously. During the conversation the owner went round to the back of the property, brought out one of

- the two orders that had been delivered, and appeared to open it in front of your officers.
- 2.8 No further tree felling has taken place since and as such T1, T2 and T5 remain.
- 2.9 Following the publicity process a single representation package containing letters and signatures was received from the owners of the property.
- 2.10 The written objection from the owner made the following points:
- T5 is diseased.
 - T5 is too large for its position in a small rear garden.
 - Roots of T5 were undermined when the patio and foundation of the property were dug.
 - T5 blocks the view of the castle.
 - T1 is in close proximity to the property.
 - T1 blocks light and view.
 - TPOs will affect the value and saleability of the property.
 - T2 blocks out light and view.
 - Roots of T2 are affecting the property.
 - Autumn leaves block gutters and drains.
- 2.11 Following the consultation, the owners had visited their neighbours to ask them to sign letters and to fill in a petition objecting to the Tree Preservation Order.
- 2.12 Six letters were written up on behalf of the neighbours that were subsequently signed. They contained the following points:
- The trees block light especially T5.
 - T5 sways in the wind.
 - The trees are too large for the site.
 - The roots are affecting our property.
 - Inability to put in solar panels.
 - Leaves block drains.
 - Leaves take weeks to clear.
 - Road gets slippery.
- 2.13 The petition was '*We object to a Tree Preservation Order being placed on number 23 and 23a Church Lane Mow Cop*', which had 25 signatures.
- 2.14 The owner does not give any detail of information that was given to the neighbours concerning the councils reasons for placing the TPO, nor is any detail provided of residents that did not want to sign the petition or letters.
- 2.15 Following concerns that were raised about the health of T5 and the impact of damage caused to tree roots, a site inspection was made on 4th September 2014 with the council's tree officer.
- 2.16 It was apparent that extensive damage had occurred to the roots of T5. Construction of foundations and landscaping caused

significant damage that will affect the stability of this tree. As such there are sufficient arboricultural reasons for the Tree Preservation Order that affects this tree not to be confirmed.

2.17 Upon a visual inspection of other remaining trees from the garden, a cavity on T2 was observed, upon which an inspection was made with the use of a ladder. Inspection of the cavity revealed some decay, the extent of which is sufficient arboricultural reason for the Tree Preservation Order that affects this tree not to be confirmed. Signs of Bleeding Canker (disease) were also evident on this tree.

2.18 T1, which is the only remaining tree on the site shows some minor thinning of the canopy (displayed by similar trees in the locality) but not sufficient to not confirm the Tree Preservation Order.

2.19 Many of the concerns relate specifically to T5, however other reasons for objection which could relate to T1 are:

- Light.
- View.
- Potential future impact on the building (no damage to the building is evident at present).
- Blocking drains.

Your officers do not consider that the above reasons are sufficient to warrant the Tree Preservation Order that affects this tree not to be confirmed. However it could be considered that the loss of T2 would improve matters concerning light and views from the properties affected.

2.20 Your officers are of the opinion that in order to protect the long-term wellbeing of the remaining Sycamore tree, that it should be protected by a confirmed Tree Preservation Order.

Recommendation

Trees T2 and T5 have arboricultural defects that would mean that a Tree Preservation Order would not be considered appropriate.

That Tree Preservation Order No 157 (2014) is confirmed as amended as T157b (2014) and will cover only T1.

That TPO 157b (2014), which affects 23a Church Lane Mow Cop is confirmed as amended and that the owners of the trees are informed accordingly.

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