

Public Document Pack

Date of meeting	Tuesday, 10th November, 2015
Time	7.00 pm
Venue	Council Chamber, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact	Julia Cleary

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 6)
To consider the minutes of the previous meeting.
- 4 **Minutes of the Planning Committee held on 21st July 2015** (Pages 7 - 8)
- 5 **Application for Major Development - Newpak Products, London Road, Chesterton; Caveman Training/Rob Duncan Planning Consultancy Ltd; 15/00729/COU** (Pages 9 - 14)
- 6 **Application for Major Development - Former Diamond Electronics, West Avenue, Kidsgrove; Revelan Group; 15/00885/FUL** (Pages 15 - 20)
- 7 **Application for Minor Development - 10 Sidmouth Avenue; The Birches (Staffs) Ltd / Mr Robert Berry; 15/00724/FUL** (Pages 21 - 32)
- 8 **Application for Minor Development - Ravens Crest, Main Road, Betley; Mr & Mrs Andrew and Lee Peddie; 15/00804/FUL** (Pages 33 - 40)
- 9 **Application for Minor Development - Red Gates, Haddon Lane; Mr Ian Snaith/Ellis Hillman Partnership; 15/00878/FUL** (Pages 41 - 46)
- 10 **Application for Minor Development - Land South -East of Hollycroft Farm, Lordsley Lane, Ashley; Mrs Derricott; 15/00814/FUL** (Pages 47 - 54)
- 11 **Appeal Decision -Buckmaster Avenue ; 14/00764/FUL** (Pages 55 - 56)
- 12 **Half Yearly Development Management Performance Report 2015/2015** (Pages 57 - 68)
- 13 **Article 4 Direction** (Pages 69 - 76)

- 14 Shop Front Design Guidance (Pages 77 - 96)**
- 15 Tree Preservation Order 169 (Pages 97 - 104)**
- 16 Tree Preservation Order 170 (Pages 105 - 110)**
- 17 URGENT BUSINESS**

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

Members: Councillors Braithwaite, Cooper, Fear, Hambleton, Heesom, Mancey, Northcott, Owen, Proctor, Reddish (Vice-Chair), Simpson, Snell (Chair), Turner, Welsh, Williams 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.

FIELD_TITLE

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

PLANNING COMMITTEE

Tuesday, 13th October, 2015

Present:- Councillor Mrs Sophia Snell – in the Chair

Councillors Braithwaite, Fear, Hambleton, Mancey, Northcott, Owen, Proctor, Reddish, Simpson, Turner, Welsh, Williams and Williams

Apologies Apologies were received from Councillor(s) Heesom

1. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

2. MINUTES OF PREVIOUS MEETING(S)

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

3. APPLICATION FOR MAJOR DEVELOPMENT - LAND AT ASHFIELDS NEW ROAD, NEWCASTLE. JESSUP BROTHERS LTD. 15/00699/FUL

Resolved:

That the application be permitted subject to

(A) The applicant entering into a Section 106 obligation by agreement by 6th November 2015 to require a financial contribution of £106,358 for the enhancement and maintenance of the open space at the Greenway and subject to the below conditions and additional conditions relating to the submission, approval and implementation of a detailed surface water drainage scheme; and the provision of landscaping and bollards on highway land adjoining the turning circle on Ashfields New Road.

1. Standard Time limit for commencement of development
2. Approval of materials
3. Implementation of landscaping scheme
4. Trees on northern boundary to be retained and tree protection measures to be agreed and implemented.
5. Contaminated land
6. Construction Method Statement, to address environmental and highway matters, including details of methods to prevent mud and debris on the highway and dust mitigation measures.
7. Implementation of noise mitigation measures to achieve appropriate noise levels.
8. Construction hours.
9. Approval of waste storage and collection arrangements.
10. Surface water drainage system
11. Provision of access, parking and turning areas prior to occupation
12. Prior approval of a scheme for the provision of a scheme with the tenure indicated in the appraisal. The scheme shall include the timing of the

construction for the affordable housing, arrangements to ensure that such provision is affordable for both initial and subsequent occupiers and the occupancy criteria to be used for determining the identity prospective and successive occupiers of such units and the means by which such occupancy will be enforce.

(B) Failing completion by the date referred to above resolution, of the above planning obligation, that the Head of Planning has delegated authority to either refuse the application on the grounds that without such matters being secured the development fails to secure the provision/maintenance of off-site public open space or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

4. APPLICATION FOR MINOR DEVELOPMENT - LAND ADJ ST GEORGES, PINEWOOD ROAD, ASHLEY. MR & MRS HERBERT. 15/00506/FUL

Cllr Northcott moved that the application be refused and this was seconded by Cllr Fear for the following reasons:

- a) That there would be significant damage to the local area which would not be outweighed by the benefit of one housing unit.
- b) That it was inappropriate development outside of the village envelope.

The Committee voted as follows:

6 in favour of refusal
6 against refusal

The Committee then voted on the recommendations in the report as follows:

8 were in favour
6 were against

Resolved:

That the application be permitted subject to conditions relating to the following: -

1. Standard Time limit for commencement of development
2. Approved plans
3. Materials
4. Boundary treatments
5. Landscaping proposals to include hedgerow planting
6. Provision of access, parking and turning areas prior to occupation
7. Visibility splays as shown and kept free from obstruction
8. Surfacing being of a bound material
9. Garages to be retained for parking
10. Gates to be 5m rear of the carriageway edge
11. Design measures to ensure noise levels

5. APPLICATION FOR MINOR DEVELOPMENT - BEEHIVE COTTAGE, BACK LANE, BETLEY. MR & MRS WALTON. 15/00662/FUL

Resolved:

That the application be permitted subject to the following condition:

1. Design measures to be submitted to the LPA within 3 months of the decision

6. **APPLICATION FOR MINOR DEVELOPMENT - RED ROOFS, HIGH LANE, ALSAGERS BANK. MR R LYTHGOE. 15/00747/FUL**

Resolved:

That the application be permitted with the following conditions:

1. Approved plans.
2. The community radio station use shall not be used independently of Red Roofs, High Lane.
3. The mast and associated equipment shall be permanently removed from the site when it ceases to be required.
4. Parking shall be provided as set out in the approved plans.

7. **APPLICATION FOR MINOR DEVELOPMENT - LAND ADJ 7 THE ROOKERY, SILVERDALE. CAXTON BUILDERS. 15/00702/FUL**

Resolved:

That the application be permitted subject to the following conditions:

1. Standard time limits
2. Approved plans
3. Hard and soft materials including surfacing
4. Boundary treatments
5. Approval of recyclable materials and refuse storage
6. Tree protection
7. Landscaping proposals
8. Construction Method Statement
9. Construction hours
10. Noise assessment/Internal noise levels
11. Contaminated land
12. Surface water drainage details

8. **APPLICATION FOR OTHER DEVELOPMENT - BAR HILL VILLA, BAR HILL ROAD, ONNELEY. MR JOHNSON. 15/00638/FUL**

Following discussions, Cllr Proctor proposed that the application be permitted subject to conditions; this was seconded by Cllr Welsh and all members voted in favour of the recommendation.

Resolved:

That the application be permitted subject to the following conditions:

1. Submission, within 3 months of the date of the permission, of a scheme of landscaping of the bunds and implementation in the next planting season.
2. No caravan to be sited/pitched for a continuous period exceeding 12 months unless otherwise agreed in writing with the LPA.

3. No more than 18 caravans on the site at any one time.
4. Any other conditions considered appropriate in consultation with the Chair and Vice Chair.

9. APPEAL DECISION - EARDLEY HALL KENNELS. 14/00970/FUL

Resolved: That the decision be noted.

10. APPEAL DECISION - THE HAWTHORNS, KEELE. 13/00424/FUL & 13/00425/CON

Resolved: That the decision be noted.

11. APPEAL DECISION - ROWNEY FARM, NEWCASTLE ROAD, LOGGERHEADS. 14/00484/FUL

Resolved: That the decision be noted.

12. SECTION 106 - QUARTERLY REPORT

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.

13. QUARTERLY ENFORCEMENT MANAGEMENT REPORT

Resolved: That the information be received.

14. OPEN ENFORCEMENT CASES

Resolved:

a) That the report be received

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

c) That the graph continue to be used in future presentations.

15. ITEM OF URGENT BUSINESS

Resolved:

That the Committee note the error in the minute on the meeting held on 3rd March 2014 relating to item 4 of that agenda by reference to the need to review the financial assessment of the scheme (planning application 14/00027/FUL) if there has been no substantial commencement within 14 months (rather than one year).

COUNCILLOR MRS SOPHIA SNELL
Chair

1. **REPORT TITLE** **Minutes of the meeting held on 21st July 2015**
- Submitted by:** (Democratic Services Manager)
- Portfolio:** (Policy, People and Partnerships)
- Ward(s) affected:** (Not Specific)

Purpose of the Report

To inform the Committee of concerns that have been raised in relation to the minutes of the meeting held on 21st July 2015.

Recommendations

- a) That the Committee note the alternative recommendation that was proposed, seconded and voted on in relation to the 5 year housing land supply.

Reasons

To inform the Committee of the concerns that have been raised and to request that the Committee note the alternative recommendation that was proposed during the meeting in relation to the 5 year housing land supply.

1. **Background**

A report was submitted to the meeting of the Planning Committee held on 21st July 2015 in relation to the 5 year housing land supply for the Borough of Newcastle under Lyme.

The minute relating to this item was agreed at the next meeting of the Committee held on 18th August 2015.

2. **Issues**

Concerns have since been raised that the minutes do not reflect the fact that an alternative recommendation was proposed, seconded and voted on during the meeting.

As the minutes for the meeting held on 21st July have been confirmed as a correct record of the meeting they cannot now be altered in any circumstance.

There are no regulations that cover the taking of minutes for meetings other than those of a Council's Executive but it is considered best practice to include in the minutes any alternative recommendations proposed and the outcomes of those proposals.

3. **Proposal**

The Committee is requested to note that the following amendment to the recommendations as printed in the original report relating to the 5 year housing land supply was proposed by Cllr Fear and seconded by Cllr Northcott.

That Recommendations 1 and 2 be deleted and replaced with:

1. ***That Members note that the Council has a 5 year housing supply.***
2. ***That express priority be given to the production of an OAN***

3. ***That members note the significance of the 5 year supply position in Development Management decision making in the report to the 3rd June Planning Committee.***

A vote was taken on the amendment as follows:

5 in favour, 9 against and 1 abstention.

The amendment fell.

NEWPAK PRODUCTS, LONDON ROAD, CHESTERTON
MR S BAGNALL

15/00729/COU

The Application is for full planning permission for the retention of change of use of the building from storage and distribution (Use Class B8) to fitness training centre (Use Class D2)

The building is located within the major urban area of Chesterton which has no specific land use designations as indicated on the Local Development Framework Proposals Map.

The 13 week period for the determination of this application expires on 16th November 2015.

RECOMMENDATION

Permit with the following conditions:

- 1. Submission and approval of a noise management plan within one month from decision. Implementation of the plan within one month of its approval or other time period as agreed with the Local Planning Authority.**

Reason for Recommendation

The change of use of the building from a B8 use to a D2 use is not considered to raise any significant concerns and the benefits would outweigh any minimal harm caused by the loss of an employment use. Subject to a condition which secures the submission, approval and implementation of a noise management plan the change of use to a fitness training centre is not contrary to the main principles of the National Planning Policy Framework 2012 and would also not harm the amenity of the area or cause a significant highway safety concern.

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

Discussions with the applicant have been ongoing throughout the process and issues have been addressed accordingly. The development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

The application is for the retention of change of use from storage and distribution (Use Class B8) to fitness training centre (Use Class D2). The D2 use has been operating for a number of months and this application seek to regularise the use of the building.

The site is located within the urban area of Chesterton which has no specific land-use designations, as indicated on the Local Development Framework Proposals Map.

Key issues in the determination of the development are:

- The principle of the change of use of the building,
- Parking and the impact on highways safety, and
- Noise and impact the amenity of the area.

The principle of the change of use

Policy E11 of the local plan states that the loss of good quality business and general industrial land and buildings will be resisted where this would limit the range and quality of sites and premises available.

Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development and that for decision-taking this means where the development plan is absent, silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the framework indicate development should be restricted. The examples given of specific policies in the footnote to paragraph 14 indicate that this is a reference to area specific designations and the site in this instance does not lie within one of these areas.

The building is old and not considered to be good quality. In this instance it is considered that the loss of this B8 unit would not raise any significant concerns that would be contrary to the main principles of the NPPF. The NPPF seeks to promote healthy communities and the D2 use would encourage sport and recreation through a fitness use. It would not be contrary to any development plan policies and so would be in accordance with the principles of the NPPF.

Parking and the impact on highways safety

Maximum car parking standards for different types of development are outlined in policy T16 of the local plan.

The applicant has stated that the site has off road car parking for 43 cars. The building has an approximate floor area of 160 square metres and policy T16 details that for a D2 use there should be 1 space per 10 square metres. 43 spaces would represent over provision for this sustainable location but the car parking provision is existing and it would not be appropriate to require the applicant to reduce car parking to a level where it would be compliant with policy.

The Highways Authority has raised no objections and it is considered that there would be a minimal harm to highway safety in accordance with the requirements and guidance of the NPPF.

Noise and impact the amenity of the area

The applicant has submitted a noise assessment to support the application but the Environmental Health Division raised concerns. This has resulted in a site meeting with officers and acoustic consultants. The site operator has made improvements in the operation and management of the activity and the potential for noise to adversely affect the amenity of the surrounding area has been significantly reduced. It was agreed that the site operator would produce a written noise management plan and that acoustic measurements would be taken to demonstrate the effectiveness of these measures.

EHD are now satisfied, subject to a condition which requires formal submission of a noise management plan for approval by the Council; the noise management plan being adhered to thereafter.

Subject to this condition the D2 can carry on without resulting in a harmful impact to the amenity of the area and residential amenity levels of neighbouring occupiers. This would therefore be in accordance with the requirements and guidance of the NPPF.

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

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Newcastle-under-Lyme Local Plan 2011

Policy E11: Development of Employment Land for Other Uses

Policy T16: Development – general parking requirements

Other Material Considerations

National Planning Policy

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

Relevant Planning History

None relevant

Views of Consultees

The **Environmental Health Division** initially objected to the application but more recently have requested a condition requiring the formal submission of a noise management plan for approval

The **Highways Authority** raises no objections but advises that the access from the car park onto Meadow Street remains open during the period the fitness centre is open and appropriate signs and markings are used to indicate the parking and one-way access arrangements in the car park. Visitors to the centre should be encouraged to use the appropriate car parks and not to park on the adjacent roads.

Representations

No letters of representation have been received.

Applicant/agent's submission

A planning statement, noise assessment and the requisite plans have been submitted to support the application. These documents are available for inspection at the Guildhall and searching under the application reference number 15/00729/COU on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

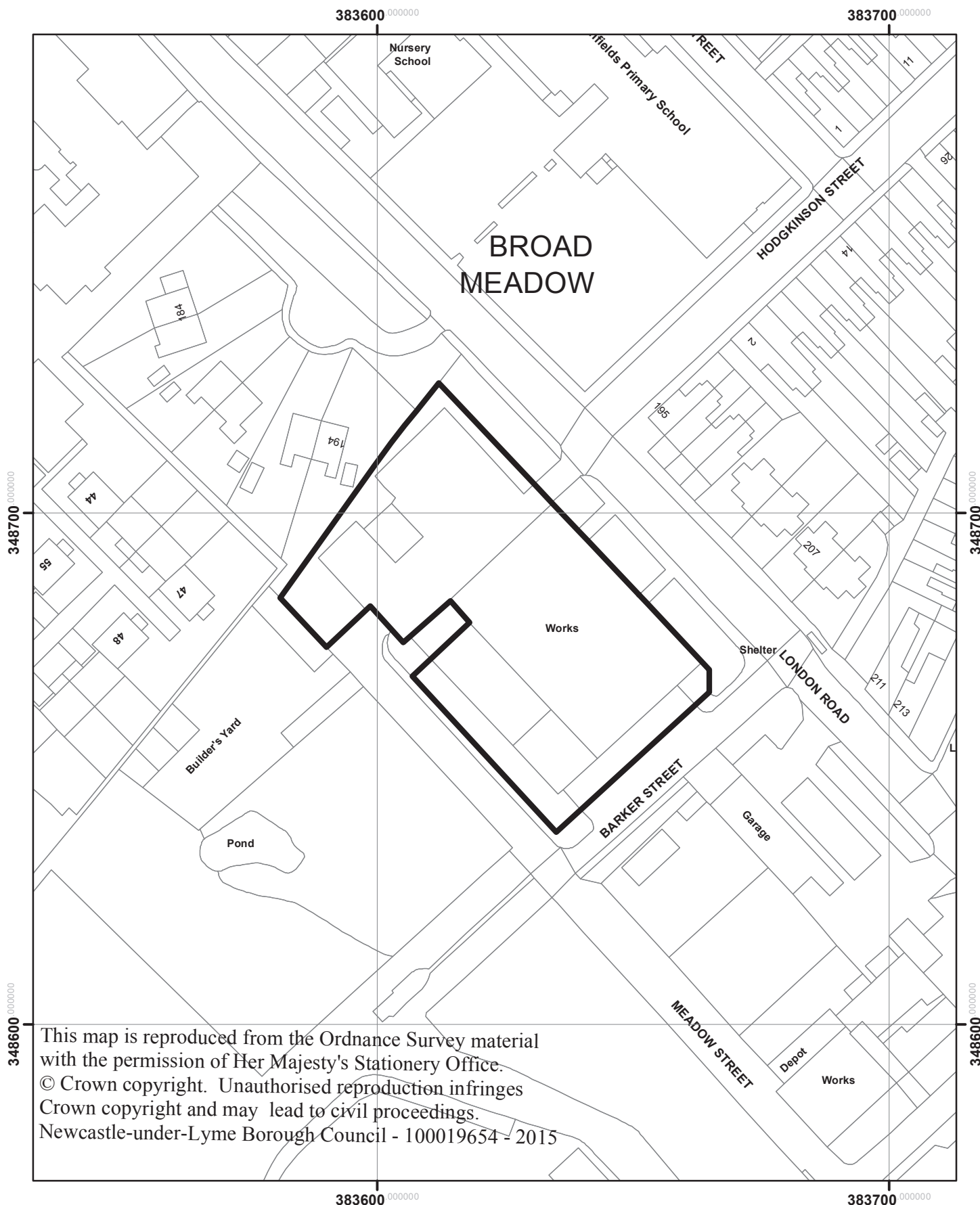
Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

21st October 2015

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Newcastle-under-Lyme Borough Council - 100019654 - 2015



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**FORMER DIAMOND ELECTRONICS, WEST AVENUE, KIDSGROVE
REVELAN GROUP**

15/00885/FUL

The application is for full planning permission to remove condition 5 of full planning permission reference 14/00736/FUL for a new industrial unit, link to existing unit, and associated service area and car parking. Condition 5 is worded as follows:

5. The remedial measures as set out in sections 7.7.1 and 7.7.2 of the submitted Geotechnical Assessment prepared by SP Associates and dated September 2002 shall be carried out in full prior to the construction of the unit hereby permitted.

Reasons – To ensure that the construction addresses the coal mining legacy issues present on site in accordance with the aims and objectives of the National Planning Policy Framework.

The site lies within the Kidsgrove Neighbourhood and Urban Area as indicated on the Local Development Framework Proposals Map.

The 13 week period for the determination of this application expires on the 4th January 2016.

RECOMMENDATION

PERMIT the application and remove condition 5 subject to all the relevant conditions from planning permission 14/00736/FUL that have not already been satisfied continuing to apply.

Reason for Recommendation

The applicant has demonstrated, to the satisfaction of the Coal Authority, that there are no remedial measures required to address any coal mining legacy issues on the site and as such condition 5 can be removed.

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

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

KEY ISSUES

Planning permission was granted earlier this year for a new industrial unit (Use Class B1, B2, and B8) and link to the existing building, with an associated service area and car parking. The development commenced some time ago, and is now close to completion.

This is an application to remove a condition of planning permission 14/00736/FUL. The condition (no.5) requires that remedial measures specified in sections 7.7.1 and 7.7.2 of the Geotechnical Assessment submitted in support of the application are carried out in full prior to the construction of the permitted unit. The remedial measures relate to the treatment and stabilisation of shallow abandoned mines and adits.

The Authority has a number of options. If it considers that the condition should remain it should refuse the application, if it considers that an amended condition is appropriate then it should approve the application subject to the amended condition, and finally if it considers the condition can be removed it can permit that. In deciding this application consideration can only be given to the disputed condition, it is not a complete re-consideration of the application.

The main issue to address is whether it is necessary to undertake the remedial measures to ensure that there are not unacceptable risks from land instability and that the development is appropriate for its location.

The NPPF, at paragraph 120, advises that to prevent unacceptable risk from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. At paragraph 121 it indicates that planning policies and decision should also ensure that the site is suitable for its new use taking account of ground conditions and land instability including former activities such as mining and any proposals for mitigation.

The applicant has advised that the site has been undermined in the past but apart from the area within the steep slope to the east (the rear of the site) the shallowest seam has a recorded thickness in the range of 0.3 to 0.9m at a depth in excess of 20m. They consider that the former workings at that depth would not pose any significant risk of surface differential subsidence sufficient to cause structural damage and no special precautions are considered warranted with respect to the site area.

The Coal Authority have accepted that the development proposals falls outside of the areas identified for remediation and that having reviewed the site investigation findings, there is no risk to the development from past mine workings at shallow depth. They have confirmed that they have no objection to the removal of condition 5.

In light of the additional information provided within this application and the advice of the Coal Authority it is considered that appropriate account has been taken to the ground conditions and land instability and that the development is appropriate for its location without such remedial works. Condition 5 can therefore be removed.

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

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

Policy SP1: Spatial Principles of Targeted Regeneration

Newcastle-under-Lyme Local Plan 2011 (NLP)

None relevant

Other material considerations include:

National Planning Policy

National Planning Policy Framework (NPPF) (March 2012)

Planning Practice Guidance (PPG) (2014)

Relevant Planning History

14/00736/FUL – Permitted – New industrial unit and associated link to existing unit, with associated service area and car parking

14/00738/FUL Permitted – alterations to existing car park and associated landscaping

Views of Consultees

The **Coal Authority** has no objection to the removal of condition 5.

Kidsgrove Town Council advise that they will go with the decision of the Coal Authority.

Representations

None received to date

Applicant/agent's submission

A supporting letter from Sladen Associates Environmental and Geotechnical Consultants has been provided. This and other application documents are available for inspection at the Guildhall and under the application reference number 15/00885/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

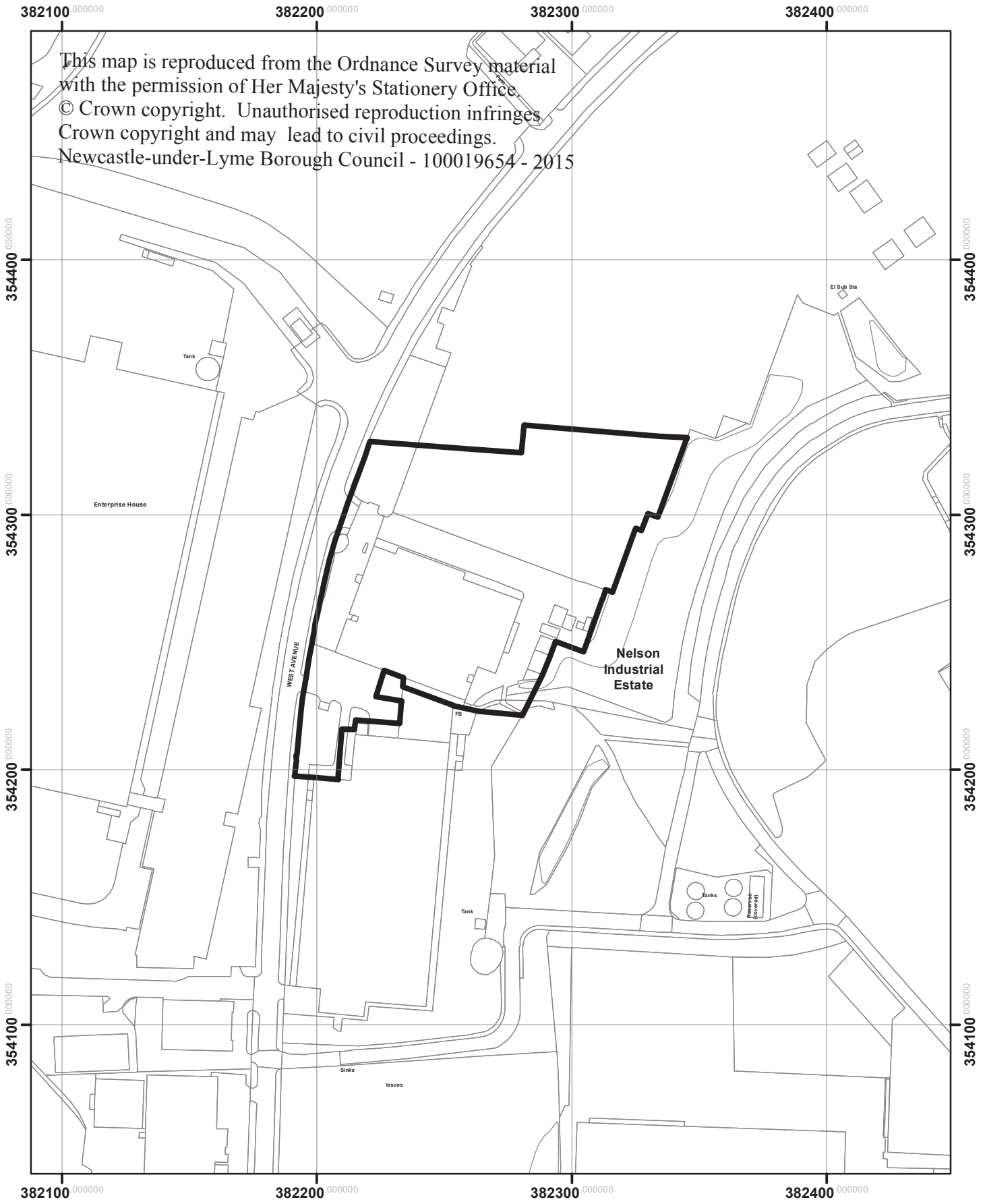
Background Papers

Planning file
Planning documents referred to

Date report prepared

28th October 2015

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10 SIDMOUTH AVENUE
THE BIRCHES (STAFFS) LTD

15/00724/FUL

The application is for 4 new detached dwellings and change of use of the property known as The Birches from a former children's home into a single dwelling. The works also include demolition of part of the Birches and the erection of a detached garage.

The application site lies within the Brampton Conservation Area and the Urban Neighbourhood Area of Newcastle as specified on the Local Development Framework Proposals Map. The site is affected by Tree Preservation Order number 14.

The application has been called in to Committee by two Councillors due to concerns about over development within the Conservation Area.

The 8 week period for the determination of this application expired on 13 October 2015.

RECOMMENDATION

1) Subject to the applicant entering into a planning obligation by 11 December 2015 securing a contribution of £14,715 for public open space improvement, PERMIT subject to conditions relating to:

- **Standard time limit;**
- **Approved plans;**
- **Materials;**
- **Submission and approval of amended plans of the proposed garage to the Birches, such plans to include the removal of the dormer window;**
- **Landscaping;**
- **All boundary treatments (including rear garden areas for the new dwellings);**
- **Retention and protection of all trees shown to be retained;**
- **Prior approval of tree protection measures**
- **Prior approval of an arboricultural site monitoring schedule.**
- **Alignment of utility apparatus (including drainage) outside the root protection or using a trenchless method;**
- **Arboricultural construction method statement to include details of construction access and use of protected surfacing, no-dig surfacing, and construction proposals for the garage;**
- **Schedule of works to retained trees;**
- **Contamination remediation;**
- **Demolition/ construction activity be limited to reasonable hours;**
- **Noise assessment indicating any mitigation measures required;**
- **Highway matters.**

2) That should the obligation not be secured within the above period, the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on open space provision; unless he considers it appropriate to extend the period for completion of the obligation.

Reason for Recommendation

The site is located within a sustainable location for new housing within walking distance of Town Centre services. The dwellings proposed are appropriately designed and located in relation to their surroundings. The demolition of a previous extension to The Birches and also the demolition of Little House would not be harmful to the character or appearance of the Conservation Area. It is also considered the appearance of the Gower Street side of the

Conservation Area boundary would be significantly enhanced by the proposal subject to the careful agreement of detailed tree retention, management works and landscaping opening up the site frontage. A modest amount of tree removal is expected to enable this, entailing the loss of moderate quality (category B) trees situated behind and amongst other high value trees which are not subject to a Tree Preservation Order or considered worthy of retention as individual specimens. There would be no material detriment to highway safety or to neighbouring amenity. A financial contribution toward public open space provision (Brampton Park) can also be secured. It is considered, overall, that the development will enhance the character and appearance of the Conservation Area.

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

Initial tree impact concerns have been overcome through the submission of additional information. Subject to appropriately worded conditions the proposal is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Key Issues

The proposal involves the construction of 4 detached, 3 floor, 5 bedroom dwellings with attached garages. These dwellings front onto Gower Street and would all be served off a single, existing access onto Gower Street.

The Birches is proposed to be converted to a single dwelling house with 7 bedrooms. An existing two storey extension is to be demolished.

A detached garage is also proposed within the curtilage of the Birches. The garage has 3 car parking. It features a pitched gable roof design with a dormer window on the front elevation.

Representations have been received from local residents that the proposed development being applied for, if granted, will be utilised as houses in multiple occupation for students (falling within Class C4) rather than operate as single dwelling houses (Class C3). Such concerns follow the refusal application reference number 15/00047/COU for the conversion of the Birches earlier this year on various grounds relating to a negative impact toward the character of the area, local amenity and the safety of residents from the fear of crime and disorder. The application submitted is for the construction of dwellings and the re-use of the Birches as a single dwelling (all within Class C3) and the application should be considered and determined on that basis.

The site lies within the Brampton Conservation Area at the end of Sidmouth Avenue and there are protected trees in the vicinity.

The main issues for consideration in the determination of this application are:

1. Is the principle of residential development in this location acceptable?
2. Is the design of the proposal, with particular regard to the impact upon the special character and appearance of the Conservation Area, acceptable?
3. Is the impact to surrounding trees acceptable?
4. Would the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?
5. Is the impact on highway safety acceptable?
6. Are any financial contributions requirements triggered and if so are the requirements appropriate?
7. Do the overall merits of the proposal outweigh any harm?

1. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

The site is located within the urban area close to the Town Centre within walking distance of the public transport provision and the full range of services on offer. Development Plan policies support the broad principle of residential development in this location.

Local Planning Authorities (LPA), by reason of the National Planning Policy Framework (Framework), are required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements (in the Borough's case as set out within the Core Spatial Strategy) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council, is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Framework, because it does not have a full objective assessment of housing need and its 5 year housing land supply statement is only based on household projections.

Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47). Paragraph 14 details that at the heart of the Framework is a presumption in favour of sustainable development and that this means, unless material considerations indicate otherwise, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework at a whole, or specific policies indicate development should be restricted.

In accordance with paragraph 14, there is therefore a presumption in favour of this development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This will be assessed below.

2. Is the design of the proposal, with particular regard to the impact upon the special character and appearance of the Conservation Area, acceptable?

Due regard must be paid to requirements to protect the special character and appearance of Conservation Areas which includes existing built development as well as landscaping and trees.

In terms of the Development Plan, Core Strategy Policy CSP1 – Design Quality lists the broad criteria of how new development will be assessed which includes amongst other things the need to promote the image and distinctive identity of Newcastle through the enhancement of strategic and local gateway locations and key transport corridors. It also requires a positive contribution to an area's identity and heritage through the use of appropriate vernacular materials. The Urban Design Supplementary Planning Document gives additional detailed design advice to be read in conjunction with the broad requirements of Policy CSP1.

Core Strategy Policy CSP2 states that the Council will seek to preserve and enhance the character and appearance of the historic heritage of the Borough.

Saved Local Plan policy B9 of the Local Plan states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B13 also requires applicants applying for planning permission to demonstrate how they have taken into account the need to preserve and enhance character or appearance of Conservation Areas.

Paragraph 17 of the Framework sets out various Core Planning Principles for Local Authorities to adhere to which includes the need to secure high quality design. Heritage protection policies defined in the Framework are consistent with that of the Development Plan.

Main access to The Birches is obtained from Sidmouth Avenue. The eastern part of the site is adjacent to Gower Street. Whilst the whole of the land subject to the proposal is within the Conservation Area, other houses on Gower Street are not included. The quality of the housing along Gower Street is mixed and not as high as Sidmouth Avenue, the Brampton in general and other surrounding streets such as Granville Avenue. There is a dense line of tall trees fronting Gower Street which reduces views into and out of the site. Mature trees are an important component of the areas identity.

The current appearance of the site is not particularly attractive when viewed from Gower Street due to overgrown planting, unmanaged trees and the position and appearance of a closed boarded wooden fencing. In addition the architectural qualities of the property known as Little House do not compliment the older higher quality buildings nearby.

The Councils Conservation Officer is not opposed to the siting or appearance of the proposed dwellings subject to the agreement of materials and landscaping details. The proposed units which incorporate Victorian design features into a contemporary scheme would integrate well with other existing buildings within the Conservation Area boundary and further afield. The introduction of the dwellings would fill the gap between the existing properties. In the otherwise built up frontage on the eastern side of Gower Street. The view taken is that granting permission would also enable a significant enhancement to the Gower Street side of the Conservation Area boundary.

The Little House is not a positive feature which adds to the character of the conservation area, and its demolition would not be harmful. The extension to the Birches is also to be demolished. Whilst the applicant's case that this is an unsympathetic extension is not agreed, it is considered that its demolition would not adversely affect the character of the conservation area and could not be resisted.

The proposed detached garage for the Birches could be improved in its appearance through the simplification of its roof design (removing the dormer). This can be addressed through a condition. The position of the garage is not otherwise considered to be visually harmful – it having an acceptable relationship with the size of The Birches property the remaining curtilage available.

The impact of the development on the visually significant protected trees within the site also has an impact on the character and appearance of the Conservation Area which is a further material factor addressed below.

3. Is the impact to surrounding trees acceptable?

Some of the Trees within the site boundary are protected by a Tree Preservation Order (TPO). There are other lower grade trees grouped together which are not protected by a TPO.

The removal of any high value tree fronting Gower Street is not supported by your officers and no such removal is proposed. The trees make a valuable contribution to public amenity and the appearance of the Conservation Area.

Technical advice was initially received advising that the impact to trees cannot be properly assessed based solely on the information presently submitted. In response the applicant has submitted additional information for consideration which includes a section drawing showing the position of the development in the context of existing trees facing Gower Street.

The Landscape Development Section's most recent advice is that they have no objections, (subject to protection measures) to the position of the new dwellings, associated driveways or the use of the existing vehicular access proposed off Gower Street subject to no further increases in its width. They are also satisfied that the loss of some of the less visually prominent trees on the inner line of the two lines of trees on the Gower Street frontage has been justified and will open up views into the site.

Overall, whilst there will be some tree loss the most visually significant trees will be retained and in this regard the development is considered acceptable.

4. Is the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development acceptable?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook. The proposal is in accordance with this guidance.

Environmental Health Division have advised that a noise assessment is undertaken which identifies any mitigation measures needed to ensure future residents will not be adversely impacted upon by road traffic noise. Such provision is appropriate.

Subject to planning condition acceptable living conditions can be secured for both surrounding residents and future occupiers of the development.

5. Is the use of the access and parking provision proposed acceptable in highway safety terms?

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

With respect to the 4 dwelling units proposed. There is an existing vehicular access onto Gower Street – approximately 3.6 metres wide. Each property is to have 2 car parking spaces.

The Highway Authority has no objections to the parking, access and turning arrangement applied for subject to conditions. One of the conditions advised by the Highway Authority is for the slight enlargement of the width of the existing vehicular access to 4.5 metres. This however could potentially result in further tree loss and following discussions with the Highway Authority it is considered that the retention and protection of trees is more important and that the existing access is acceptable in highway safety terms.

The proposal provides parking for 5-6 vehicles within the site and proposed garage for the Birches which would exceed the maximum standards but is proportionate to the size of the dwelling and its plot.

Overall it is considered, in line with the Highway Authority advise, and notwithstanding the concerns expressed about the safety of the Gower Street/King Street junction, that there is no significant detriment to highway safety arising from the change of use aspect.

6. What financial contributions are required?

LP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, where it should be located and what issues should be taken into account in its design. It also indicates that its maintenance must be secured.

Policy CSP5 of the CSS states that the plan area's open space, sports and leisure assets will be enhanced, maintained and protected by a number of measures.

The Council needs to have regard to the three tests set out in Section 122 of the CIL Regulations i.e. is any contribution necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

The site measures 0.41 in area triggering public open space contribution requirements. The Landscape Development Section has requested that a total financial contribution of £14,715 is required towards public open space provision. This equates to £2,943 per dwelling. The

money will be spent on maintaining/ upgrading Brampton Park where there is an identified need.

Your Officer is satisfied that the public open space contribution sought is one which meets the three tests set out in Section 122 of the CIL Regulations (i.e. it is necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development).

Section 123 of the Regulations stipulates that a planning obligation may not constitute a reason for granting planning permission if it provides funding in respect of a specific infrastructure project or a type of infrastructure and, if five or more obligations providing funding for that project or type of infrastructure have already been entered into since 6 April 2010. The limit has not yet been reached. It is therefore considered that such a contribution could be secured as it would accord with Section 123.

7. Do the overall merits of the proposal outweigh any harm?

The broad location is a sustainable one for housing. The proposal would make a contribution toward boosting housing land supply. In addition the application meets the aims to both preserve and enhance the special character and appearance of Conservation Areas. It is considered that the appearance of the site in particular on the Gower Street aspect can be significantly enhanced through careful management and the removal of some low grade tree specimens not worthy of retention. Whilst the development will result in the loss of some moderate quality trees also, such impacts are not sufficient to outweigh the benefits of allowing the proposal.

8. Other matters

Residents have requested that an Article 4 Direction is made to prevent changes of use from Class C3 (dwellinghouses) to Class C4 (houses in multiple occupation) without the benefit of planning permission. Consideration is being given to this and a report will be brought to Committee. Notwithstanding the outcome of that process it remains necessary to determine this application, and the possibility of the imposition of such an Article 4 Direction is not material to the determination of this application.

Following receipt of representations addressed to and received by the Secretary of State the Department for Communities and Local Government (DCLG) have notified the Council that the Secretary of State will consider "call in" of the application should the Council be minded to approve the proposal at the forthcoming Committee meeting. They have requested that the Council hold issuing the decision until the Secretary of State has had time to consider a call in. The time frame for that decision is unknown as it would require Ministerial decision.

Given that the application has already been with the Authority for some 10 weeks and in the absence of any other reason to delay a decision your officers have advised DCLG that the Council would not be willing or able to withhold issuing a decision in the circumstances. The DCLG is able to issue an Article 31 holding Direction following the committee meeting which would prevent the Council from issuing a decision notice until a decision on call in has been made by the Secretary of State which is what they have indicated they will do.

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

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

Policy SP1	Spatial principles of Targeted Regeneration
Policy SP3	Spatial principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP2	Historic Environment
Policy CSP3	Sustainability and Climate Change

Policy CSP5 Open Space/Sport/Recreation
Policy CSP10 Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1 Residential development: sustainable location and protection of the countryside
Policy T16 Development – General parking requirements
Policy T18 Development servicing requirements
Policy C4 Open Space in New Housing Areas
Policy N12 Development and the protection of trees
Policy N13 Felling and pruning of trees
Policy B9 Prevention of Harm to Conservation Areas
Policy B10 The Requirement to Preserve or Enhance the Character or Appearance of Conservation Areas
Policy B12 Demolition in conservation areas
Policy B13 Design and development in Conservation Areas
Policy B14 Development in or adjoining the boundary of Conservation Areas
Policy B15 Trees and landscape in conservation areas
Policy IM1 Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations

National Planning Policy Framework (March 2012)

Planning Practice Guidance (March 2014)

Supplementary Planning Documents/Guidance

Space Around Dwellings SPG (SAD) (July 2004)

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

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

Relevant Planning History

15/00047/COU	Change of use from former children's home to student accommodation	Refused	2015
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An appeal has recently been submitted

15/00352/COUNOT	Prior notification of a proposed change of use of existing offices to 4 self-contained dwellings	Not permitted development	
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On the basis that the development was not one consisting of a change of use to a dwelling from a use falling within Class B1(a) offices. Specifically the Planning Authority considers the use of the building to have been a mixed use for office (B1)(a) and therapy (D1) uses.

94/00230/CPO	Alterations, refurbishment and repositioning of existing fire escape	Permitted	1994
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NNB10377	Single staff house	Permitted	1972
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NNB01313	Conversion to form a Hostel for Working Girls.	Deemed Permitted	1951
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Views of Consultees

The **Highway Authority** has no objections on highways grounds subject to conditions relating to the following:-

1. Revised access details with an access width of 4.5 metres with visibility splays.
2. Parking and turning areas provided in accordance with the approved plans prior to occupation and retained for the life of the development.
3. The vehicular access of Gower Street to remain ungated.
4. Garages to be retained for the parking of motor vehicles and cycles.
5. Prior approval of a construction method statement which shall then be implemented.

The **Conservation Advisory Working Party (CAWP)** recommend that an independent historic assessment of the significance of the side extension which is proposed to be demolished as there is not enough information to make an informed judgement. They also object to the orientation of the proposed garage which does not reflect the street pattern along Sidmouth Avenue. The dormer window is inappropriate and should be deleted from the design. The Working Party supports the house design of the new houses fronting Gower Street as the right approach creating frontage which will enhance the quality of the built environment on this street. They support the removal of the fence and erection railings and hedge.

The Council's **Urban Design and Conservation Service** comments that:-

- With respect to the 4 detached dwellings proposed. Looking at the areas historic mapping it makes sense for the site to be divided. Historic mapping shows the development of the area from the 19th century onwards and how Gower Street has developed. It is very likely historically that this part of Gower Street would have developed with houses fronting the street if the plot had not been purchased by the then owners of The Birches. There was a tree-lined pathway up through the centre of the site. This analysis is important to understand how the area has developed and how best to enhance it in the future.
- The existing concrete post and timber fence forming a blank elevation to Gower Street does not create an attractive frontage and the proposal to open out this side of the street with the proposed houses creating an active frontage will be a positive contribution to the street scene and raise the quality of development in this location. There is also an existing house of no design quality fronting Gower Street which is currently a little overpowered by the dense line of trees, although there is a pedestrian and vehicular access onto Gower Street already which is to remain in the new scheme.
- The design of the dwelling houses proposed reflects the Victorian character of some of the houses in the area but with a contemporary element which would be effective subject to material quality and finish. Subject to conditions securing materials and high quality landscaping for the Gower Street frontage there are no objections to the design proposed.
- The dense lines of mature trees are in place through the evolution of the plot as a back garden to the Birches. They are a significant and attractive landscape feature, particularly the largest group which are closest the road edge. It is considered some careful reduction of this tree coverage would enable the houses to be glimpsed and enhance the area, open it up and provide attractive views into the site. The selective loss of the trees should be weighed against the positive contribution which the overall development will give to this part of the Conservation Area and Gower Street.
- No objections to the change of use of the main house. The institutional alterations to the whole of this building which include additions are all unsympathetic and it will be a great improvement if they are removed as part of this proposal, including all of the

rear fire escapes. Despite all of these issues, partial demolition to a building within a Conservation Area does not require the benefit of any prior permission.

- The detached garage proposed should be kept simple by removal of the dormer window which is an unnecessary and fussy detail.

The **Environmental Health Division** has no objections subject to:-

1. Construction and demolition hours being restricted to between the hours of 18.00 hours and 07.00 hours Monday to Friday, and not at any time on Sundays, Bank Holidays or after 13.00 hours on any Saturday.
2. Prior approval of a noise assessment with any mitigation measures needed to achieve appropriate internal and external noise levels.
3. Contaminated land conditions.

The **Landscape Development Section** makes the following comments, further to consideration of additional information:

- Previous concerns about justification for the loss of some category B trees along the Gower Street frontage have been addressed. The loss of some of the less visually prominent trees on the inner line is accepted to increase views into the site, whilst other more visually prominent category B trees are to be retained and protected.
- Should further tree removal be required at any time in future it would be subject to a notice application.
- Additional information has demonstrated that the driveway can be constructed without causing damage to retained category A trees and that there is sufficient space for future growth of trees without the need for harsh pruning.
- Disturbance require to the root protection area of trees at the site entrance is likely to be minimal and the driveway completed without causing damage.
- Information concerning service connections should be provided by condition.
- There will be a requirement for tree pruning works to existing retained trees has been demonstrated and should be agreed in detail by condition.
- The garage would need to be of a no-dig construction.

Should permission be granted a financial contribution of £2,943 per dwelling (comprising of £1791 per dwelling for capital development/improvement of greenspace and £1152 for nearby garden space). A total financial contribution of £14,715 is therefore required. The Public Open space contribution would be required for Brampton Park which is within a 230m walk.

Representations

41 letters of representation have been received including correspondence from the **Residents at Gower, Granville and Sidmouth (RAGGS)** and a signed petition containing 42 signatures objecting to the proposal on the following grounds:-

- Family housing generally is appropriate but a House in Multiple Occupation (HMO) type proposal for student accommodation is not because transient occupiers will not have the same level of care and commitment to the surrounding area.
- The proposal is likely to operate as a HMO for students.
- An Article 4 Direction should be considered by the Authority which removes permitted development rights for developers as soon as possible.
- The development is likely to result in unacceptable levels of noise, traffic and antisocial behaviour affecting amenity and safety.
- The proposal would adversely impact on some residents who have medical conditions which require quick and easy unhindered ambulance access as well as general peace and tranquillity.
- The Gower Street and King Street road junction is very busy and new dwellings will increase existing highway safety problems at that junction. There has been a fatality at this junction.

- The extension to the Birches, which is to be demolished, has historic and aesthetic value. It is not an unsympathetic extension as claimed and its demolition would be harmful.
- Harm to the appearance of the Conservation Area.
- The design of the new houses is unsympathetic and harmful. Their position and height being inappropriate and “shoe horned” into the site.
- The part of The Birches which is to be demolished is high quality and has heritage value.
- The appearance and position of the proposed detached garage is inappropriate.
- Trees are integral to the appearance of the area and have ecological value. Tree removal would be unacceptable.

Applicant/agent’s submission

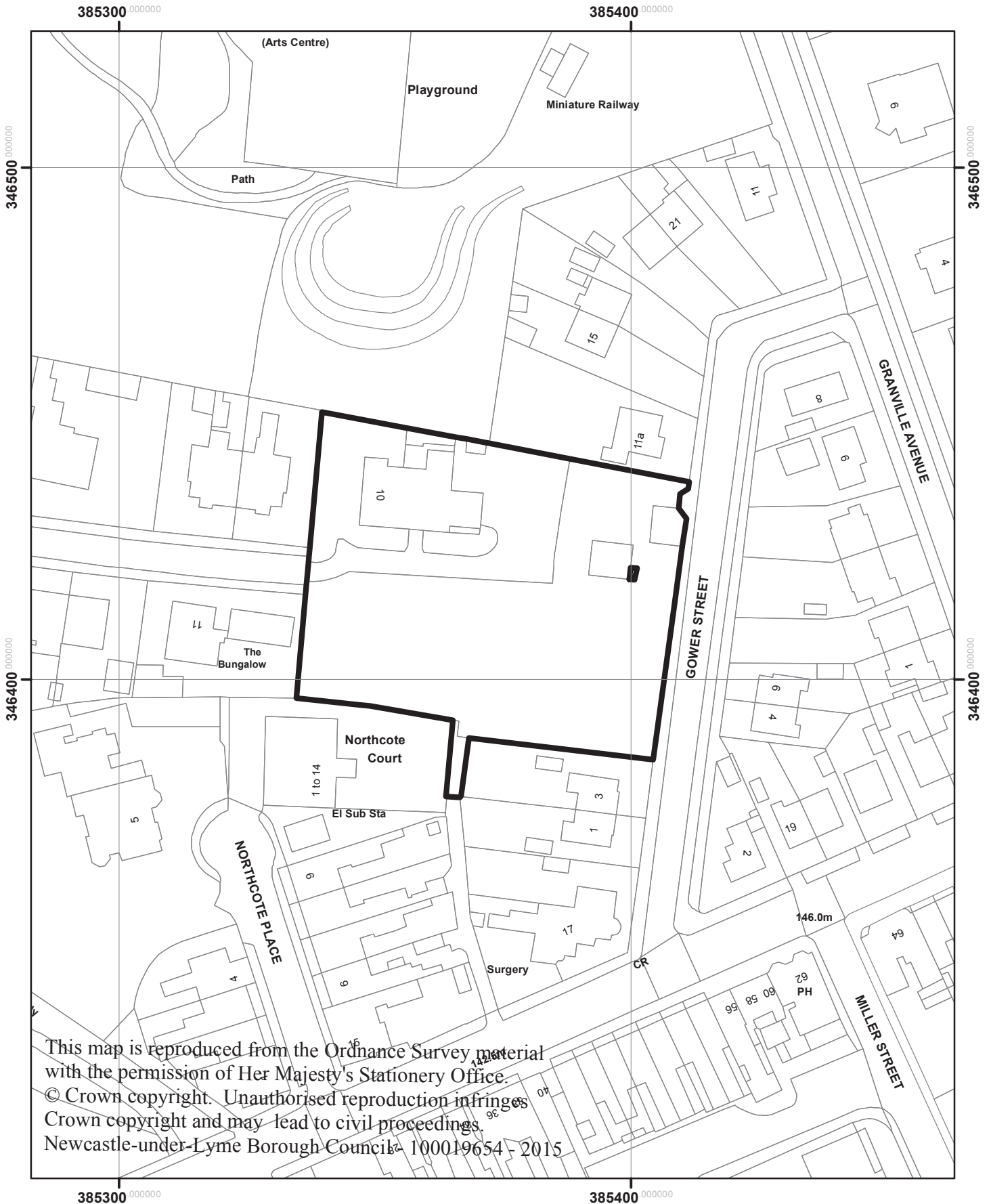
Application forms and indicative plans have been submitted along with a Design and Access Statement and Tree Report. These documents are available for inspection at the Guildhall and searching under the application reference number 15/00724/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

23 October 2015.



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Newcastle-under-Lyme Borough Council - 100019654 - 2015



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RAVENS CREST, MAIN ROAD, WRINEHILL
MR & MRS PEDDIE

15/00804/FUL

The application is for full planning permission for the erection of a detached replacement dwelling off the existing access onto Main Road.

The application site lies in the Green Belt and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. The site is adjacent to two listed buildings and close to Betley Mere Site of Special Scientific Interest (SSSI).

The 8 week period for the determination of this application expires on 11th November 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following: -

1. **Standard Time limit for commencement of development**
2. **Approved plans**
3. **Materials**
4. **Removal of Permitted Development rights**
5. **Contaminated land**
6. **Importation of materials**
7. **Provision of access, parking and turning areas prior to occupation**
8. **Surfacing of access drive**
9. **Gradient of access drive**
10. **Gates to be 5m rear of the carriageway edge**
11. **Landscaping scheme**
12. **Detailed tree felling/pruning specification**
13. **Tree protection measures**
14. **No damage to existing trees**

Reason for Recommendation

The proposed replacement dwelling would be materially larger than the building it replaces and therefore constitutes inappropriate development in the Green Belt. However, the applicant could carry out extensions to the existing property that would have a similar volume and would not be classed as disproportionate additions. The proposal would have no greater harm on the openness of the Green Belt than extensions to the existing dwelling and this would therefore be a fall-back position and amounts to the very special circumstances required to justify the development. The development would not adversely impact on the setting of the adjacent listed buildings. There would be no significant adverse impact on the character of the surrounding area, residential amenity or the trees on the site and the proposal is considered acceptable in terms of impact on nature conservation. The proposal accords with Policies ASP6, CSP1, CSP2 and CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policies S3, H1, N12, N17, N18, T16 and B5 of the Newcastle Under Lyme Local Plan 2011 and the aims and objectives of the National Planning Policy Framework (2012).

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

An amended plan has been submitted to show access off the existing driveway to ensure that the stone wall along the road frontage is retained. This is now considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework.

Key Issues.

Planning permission was granted in 2012 for a replacement dwelling of the same design as that applied for in this application. The permission has lapsed and cannot now be implemented. Notwithstanding this it is considered that the main issues for consideration remain:

- Whether the proposal constitutes appropriate or inappropriate development in the Green Belt
- The impact of the proposal upon the character of the area
- Impact on the setting of the adjacent Listed Buildings
- Impact on the Area of Active Landscape Conservation
- Impact on trees
- Impact on nature conservation
- Highway safety
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

Appropriate or inappropriate development within the Green Belt?

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

The NPPF further states in paragraph 89 that local planning authorities should regard new buildings within the Green Belt as inappropriate. Exceptions to this are the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. Policy S3 of the Local Plan 2011 also states that replacement dwellings must not be materially larger than the dwellings they replace.

The replacement dwelling would result in an increase in volume of approximately 50% over and above the original dwelling.

The proposed dwelling would be materially larger than the dwelling it is proposed to replace. It therefore has to constitute inappropriate development within the Green Belt and should not be approved except in very special circumstances.

Impact on character of the area

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. It states that development should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

The Parish Council object to the proposal on the grounds that the contemporary design is considered too bold and futuristic and will not be compatible with any other property. They refer to Policy H2 of the Local Plan, but that policy has not been ‘saved’ and therefore is not a material consideration.

The existing property has little architectural merit. Although the proposed dwelling would be different to any other properties nearby, given the mix of existing styles, the design of the replacement dwelling is considered appropriate in its context. The site is elevated significantly above the road, the topography and the presence of dense landscaping, ensures that it is not visible in the street scene. The replacement dwelling would be a similar height to the existing property. The context of the site have not materially changed since planning permission was granted for the design of the dwelling as currently proposed and on balance, the development remains acceptable in appearance.

Impact on the setting of the adjacent Listed Buildings

Paragraph 131 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.

Policy B5 of the Local Plan states that the Council will resist development proposals that would adversely affect the setting of a listed building.

The application site is adjacent to two listed buildings, Five Steps, a Grade II timber framed listed building, which lies to the west, and Ravenshall Farmhouse and Barns which lie to the north. The main Ravenshall farmhouse is Grade II listed and the barns are curtilage listed.

The application site is elevated considerably above both of these historic buildings but despite the elevated situation, it is screened by dense trees and shrubs on the boundaries. The height of the proposed dwelling would be very similar to the existing dwelling and given the topography of the land and the dense landscaping, it is not considered that the proposal would have any adverse impact upon the setting of either Five Steps or Ravenshall Barns.

Landscape Impact

The site is within an Area of Active Landscape Conservation and Policy N18 of the Local Plan states that within such areas development that will harm the quality and character of the landscape will not be permitted. Particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area.

Given that the proposal is for a replacement dwelling and that no landscape features would be adversely affected, it is not considered that the landscape quality would be harmed to a sufficient extent to justify refusal.

Impact on trees

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

There are a number of trees within and adjacent to the site and they are predominantly on the site boundaries.

There has been a change in the British Standard since the previous permission was granted. Therefore the tree protection proposals will need to be updated to ensure that the tree protection measures proposed for this property meets current standards. In addition there must be no levels alterations within the RPA (Root Protection Area) of the retained trees. Conditions are recommended to address these issues.

Nature Conservation

The application site is in close proximity to Betley Mere Site of Special Scientific Interest (SSSI). However, given the nature and scale of the proposals, Natural England raises no objection to the proposals. It is not considered that an objection could be sustained on the grounds of impact on nature conservation.

Highway safety

The access into the site has been amended to retain the existing access and for the curve of the turn in from the north to be adjusted within the site. There is a dry stone wall that runs along the frontage which is a feature worthy of retention. This does not start immediately to the north of the access so all work can be carried out without the need for the repositioning of the wall.

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

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

The existing property has not previously been extended and still has full permitted development rights. Certain extensions, alterations and outbuildings can be carried out without planning permission. Various extensions and alterations could also be carried out even if planning permission was required, as long as they did not result in a disproportionate addition over and above the size of the original dwelling. This is a fall back position that could be exercised by the applicant and needs to be considered in the determination of this application.

As indicated above the replacement dwelling is about 50% larger in volume than the existing, original dwelling. Therefore the replacement dwelling would be no larger than the original dwelling with additional extensions of a permissible volume.

It is considered that the addition of extensions to the property as an alternative to the replacement that is proposed represents a likely fall-back position and the harm that the size of the replacement dwelling would have on the openness of the Green Belt would be no greater. This fall-back position amounts to the very special circumstances required to justify the proposed development in this instance, this being in accordance with the requirements of the NPPF.

As the Local Planning Authority would not want the replacement to be capable of being extended further under Permitted Development Rights in order to maintain the openness of the Green Belt the imposition of a suitable planning condition is required, including Class E, which in this case would permit a range of outbuildings within the curtilage if omitted, because of the lack of natural physical constraints and thereby adding to the volume of buildings on the site within the Green Belt.

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP2: Historic Environment
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character – General Considerations
Policy N18: Areas of Active Landscape Conservation
Policy T16: Development – General Parking Requirements
Policy B5: Control of Development Affecting the Setting of a Listed Building

Other Material Considerations include:

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

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance relating to the control of residential development
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)
Space Around Dwellings Supplementary Planning Guidance (2004)

Relevant Planning History

92/00434/FUL	Erection of conservatory	Refused
12/00175/FUL	Replacement Dwelling	Approved

Views of Consultees

The **Highway Authority** has no objections subject to conditions regarding visibility splays, provision of access, parking and turning areas, surfacing of access in a bound material, access gradient and position of any gates, control over future use of the garage.

The **Environmental Health Division** has no objections subject to conditions regarding unexpected contamination and importation of soil/material.

The **Landscape Development Section** has advised that there has been a change to the British Standard since the previous application that affects this property was made so the tree protection proposals need to be updated and the tree protection proposed for this property must meet current standards. No objection are raised, however, to the principle of this development but concern is expressed about the levels works that are proposed for the garden area. There must be no levels alterations within the RPA (root Protection Area) of retained trees. Proposals drawings presently show a shaded area where garden will be level at 499.50m. This cannot be achieved with the retention of T8 and some trees within G3. Further information is required to establish a landscaping solution that would allow the retention of trees to the south east of the plot (group 3 and T8). Recommends conditions.

Natural England No comments.

The **Conservation Officer** states that the application site sits on land elevated considerably above the adjacent listed buildings, Five Steps and Ravenshall Farmhouse and barns. Despite this elevated situation and commanding views, Five Steps is not readily visible from the current bungalow site and perhaps only part of the steeply sloping roof can be seen. The boundary between the application site and the barns is fairly dense and the applicant intends to do further planting to give the barns some screening from the new dwelling. The existing bungalow has no architectural merit but neither does it impact on either of the listed buildings. The dwelling will be no higher than the existing roof of the bungalow and therefore it will have no impact on the setting of either Five Steps or Ravenshall Barns. The design is brave and there are no objections.

Betley, Balterley & Wrinehill Parish Council objects in the strongest terms to the application. The increased scale of the proposed replacement dwelling (at 150% of the volume of the existing building) is materially significant and should be regarded as a departure from policy, which requires very special circumstances to be demonstrated. The contemporary design is considered too bold and futuristic for the visual environment and will represent a singular design that is not compatible with any other property, therefore detracting from the visual amenity of this area. As such the Council believes the application is contrary to the planning policies S3, H2 and N18. The bold and futuristic design of the proposal is inappropriate. The Parish Council also draws to the planning authority's attention the Betley, Balterley & Wrinehill Parish Plan

Representations

One letter of objection:

- Design is not in keeping with the character of the village and surrounding area;
- Design is inappropriate given the location close to several listed period dwellings.

Applicant's/Agent's submission

A Design & Access Statement and an Arboricultural Impact Assessment have been submitted. These documents are available for inspection at the Guildhall and under the application reference number 15/00804/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

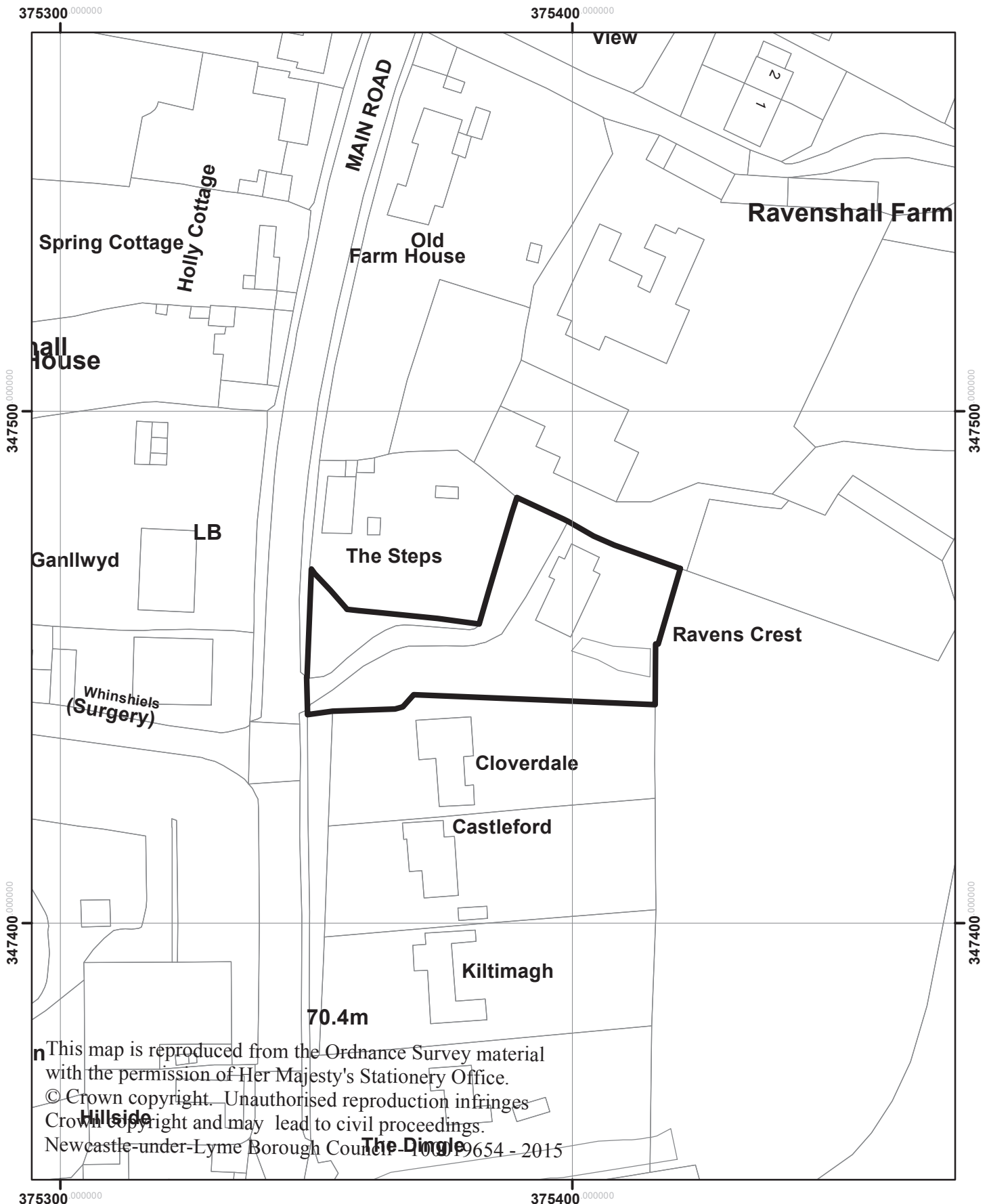
Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

22 October 2015



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REDGATES, HADDON LANE, CHAPEL CHORLTON
IAN SNAITH

15/00878/FUL

The application is for full planning permission for the erection of a detached dwellinghouse with a double garage and access.

The site lies within the open countryside on land designated as an Area of Landscape Maintenance, as indicated on the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expires on the 30th November 2015

RECOMMENDATION

Refuse for the following reason;

- 1. The design of the proposed dwelling, by virtue of its scale, would have a harmful impact on the character of the area and quality of the landscape, contrary to policies N17 and N19 of the local plan, policy CSP 1 of the CSS and the guidance and requirements of the NPPF, along with the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD.**

Reason for Recommendation

The principle of residential development in this location was considered acceptable when granting outline planning permission in April 2015 (ref 15/00039/OUT) subject to an occupancy restriction condition being imposed on the adjoining. However, the design, in particular the scale of the proposed dwelling, is not in keeping with the character of the area which would be harmful to the quality of the landscape.

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

Officers have endeavoured to seek amendments during the consideration of the application but no further plans have been submitted to address the significant concerns raised and the application is considered to be contrary to national and local planning policy.

Key Issues

The application is for full planning permission for the erection of a detached dwelling within the side garden of a detached property located off Haddon Lane in Chapel Chorlton. The application site is located within the open countryside on land designated as an Area of Landscape Maintenance, as indicated on the Local Development Framework Proposals Map.

Outline planning permission was granted by at the Planning Committee meeting of 3rd March 2015 in principle with the conditions then agreed at the following meeting of 31st March. The reasons for the decision was that the site was within an existing ribbon development of residential dwellings and so would represent infill development and would allow an elderly relative to be cared for by the occupiers of 'Redgates' which would outweigh the harm caused by the unsustainable location. One of the conditions imposed restricted the occupation of the existing dwelling 'Redgates' to Mrs Snaith (the applicants mother). This would then allow the applicant to occupy the approved dwelling which is now the subject of this application.

The outline permission is still extant and so the principle has been established and the key considerations of this application are;

- The design of the development and the impact on the character and quality of the landscape,

- The impact on a trees protected by a Tree Preservation Order,
- The impact on highways safety, and
- The impact on the residential amenity of neighbouring properties

The design of the development and the impact on the character and quality of the landscape

The area is designated as an area of landscape maintenance (policy N19) which seeks to maintain the high quality and characteristics of landscapes and development can be permitted if it contributes to this aim.

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

Paragraph 64 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. The NPPF also seeks to protect valued landscapes.

The proposed dwelling would be a large 4/5 bedroom dwelling in the side garden of 'Redgates' which is a bungalow. The neighbouring property is a modest two storey semi-detached dwelling in a row of semi-detached properties. A detached double garage is also proposed at the front of the proposed dwelling.

The applicant has submitted a proposed street scene view in an attempt to show that despite the large scale of the dwelling it would have a similar ridge height to the neighbouring modest two storey building due to it being set at a lower ground level. Whilst this is the case the proposed dwelling would have a much greater footprint and would be out of keeping with the bungalow and the modest two storey dwellings adjoining. It would therefore not maintain the high quality landscape and would be out of character with the immediate locality.

The building has also been significantly set back so that the front building line is close to matching the rear building line of the existing dwelling and the neighbouring dwelling which would add to the concerns about the design of the proposal. .

A smaller and less dominant proposal would be more appropriate for this location given the scale and height of the adjoining dwellings. For this reason the proposal would be contrary to policies N17 and N19 of the local plan, policy CSP 1 of the CSS and the guidance and requirements of the NPPF.

The impact on a trees protected by a Tree Preservation Order

A visually significant beech tree is located close to the side boundary which is covered by a tree preservation order.

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

As discussed the proposed dwelling has been set significantly back from the front boundary which ensures that the dwelling and the detached garage are sited to the rear of the tree. The submitted a Tree Survey and Arboricultural Implications Assessment demonstrate that the tree will not be adversely affected by the development. The landscape section has raised no objections subject to conditions that protect the tree during construction and the submission of a landscaping scheme.

The impact on highways safety

The application site has an existing access point. The proposal is to close this access point and reposition it close to the side boundary with 'Redgates'

The Highways Authority has raised no objections subject to conditions that the access, parking and turning areas are provided prior to occupation, visibility splays being provided and kept free from obstruction, the redundant access being permanently closed and the garage being retained for the parking of vehicles. All these conditions are considered acceptable.

The impact on residential amenity levels of neighbouring properties

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

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

Sufficient private amenity space would remain for the existing dwelling and an ample amount of private amenity space is proposed for the proposed dwelling.

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

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 11: To focus development within the settlements of Loggerheads, Madeley and Audley Parish to support their function as Rural Service Centres

Strategic Aim 15 – To protect and improve the countryside and the diversity of wildlife and habitats throughout the plan area

Policy SP1: Spatial Principles of Targeted Regeneration

Policy ASP6: Rural Area Spatial Policy

Policy CSP3: Sustainability and Climate Change

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside

Policy T16: Development – General Parking Requirements

Policy N12: Development and the Protection of Trees

Policy N13: Felling and Pruning of Trees

Policy N17: Landscape Character – General Consideration

Policy N19: Area of Landscape Maintenance

Other Material Considerations

Relevant National Policy Guidance:

National Planning Policy Framework (NPPF) (March 2012)

Planning Practice Guidance (PPG) (2014)

Supplementary Planning Guidance/Documents

Space Around Dwellings (July 2004)

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

Planning for Landscape Change – Supplementary Planning Guidance to the Staffordshire and Stoke on Trent Structure Plan

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

Relevant Planning History

N15694 (1986)	Erection of a bungalow.	Refused	
96/00641/OUT dismissed.	Detached dwelling on land adjacent		Refused and subsequent appeal
02/00168/OUT	Erection of dwelling	Refused	
04/00173/OUT dismissed.	Erection of one detached bungalow		Refused and subsequent appeal
07/00180/OUT	Detached dwelling	Refused	
13/00907/OUT	Outline application for erection of a detached property		Refused
15/00039/OUT	Erection of detached dwelling	Permitted	

Views of Consultees

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

The **Highways Authority** and the **Landscape and Development Section** raise no objections subject to conditions

Chapel and Hill Chorlton Parish Council have been consulted; any comments received will be reported.

Representations

No letters of representation have been received as a result of the publicity undertaken on this application, but note the letters and petition in support referred to below.

Applicant/agent's submission

The requisite plans have been submitted along with a tree survey, Arboricultural Implications Assessment, tree constraints plan and a tree protection plan have been submitted.

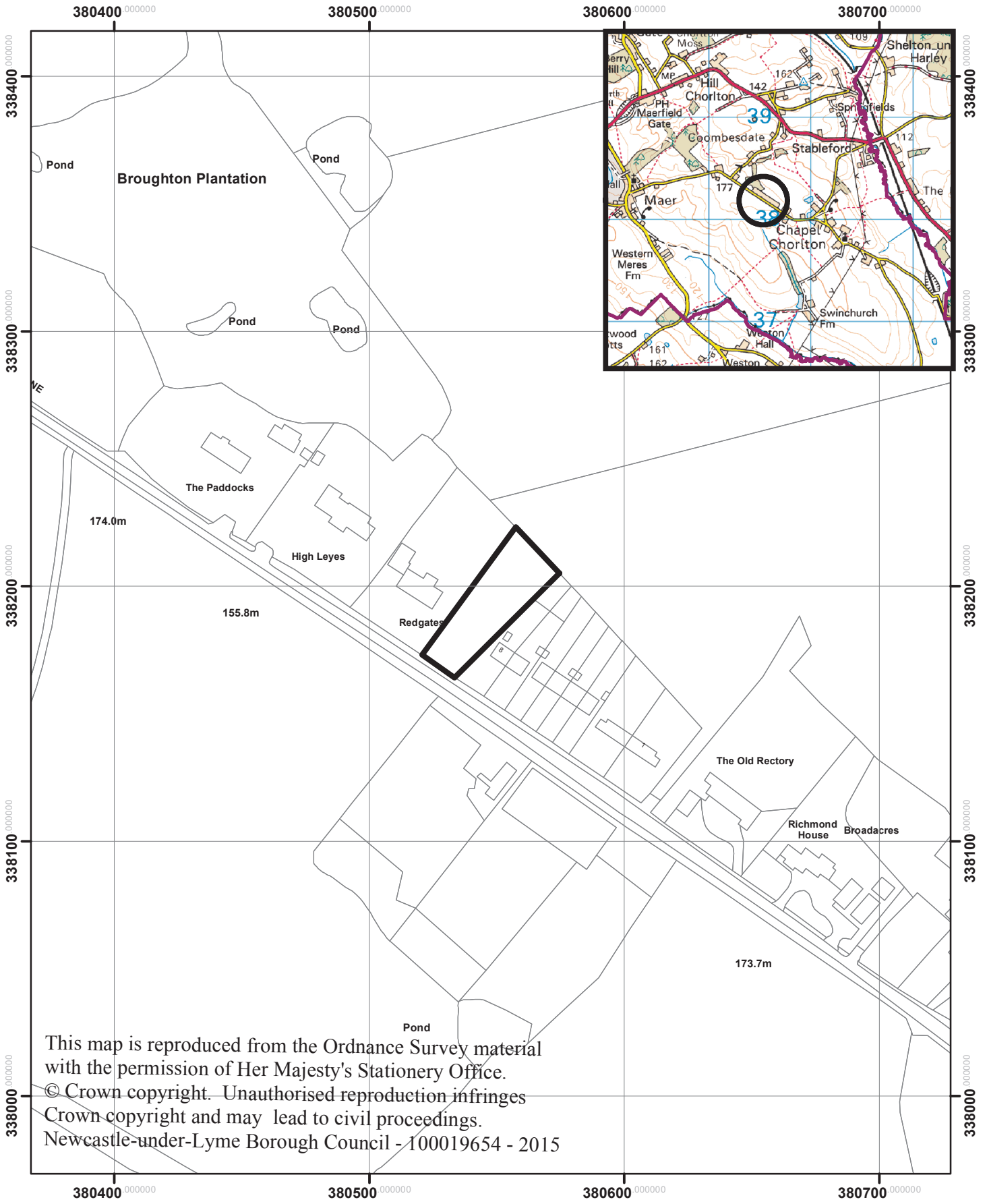
These documents are available for inspection at the Guildhall and via the following link:

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

23rd October 2015



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**LAND SOUTH-EAST OF HOLLYCROFT FARM, LORDSLEY LANE, ASHLEY
MRS J DERRICOTT**

15/00814/FUL

The Application is for full planning permission for the erection of a new dwelling.

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

The 8 week period for the determination of this application expires on 13th November 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following:

- **Commencement of development**
- **Plans referred to in consent**
- **Materials**
- **Dwelling noise levels**
- **Waste storage and collection arrangements**
- **Highway matters**

Reason for Recommendation

The fall-back position and the beneficial impact upon the character and appearance of the site are significant factors that outweigh the harm arising from the unsustainable location of the site. Further, there would be no adverse impact on residential amenity or the Area of Active Landscape Conservation.

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

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

Key Issues

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

- Does the proposal comply with policies on the location of new housing?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would there be any adverse impact on residential amenity?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

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

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

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

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

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

The LPA, by reason of the NPPF, is however required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements (in the Borough's case as set out within the CSS) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under-delivery of housing, the LPA is required to increase the buffer to 20%. The Local Planning Authority is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF), because it does not have a full objective assessment of housing need, and its 5 year housing land supply statement is only based on household projections.

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47). Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development and that this means, unless material considerations indicate otherwise, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole, or specific policies in the Framework indicate development should be restricted. The examples given of 'specific policies' in the footnote to paragraph 14 indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

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

The proposed dwelling would be adjacent to an existing dwelling and vehicle repairs business. However it is a substantial distance from the services and facilities of Loggerheads and therefore would be isolated in the countryside in terms of its location in relation to nearby settlements. The future occupiers of the house would be likely to be reliant on the use of the private car therefore.

It is the case that consent has recently been granted for the conversion of the existing outbuilding at the site to a dwelling (Ref. 15/00613/COUNOT) and the house now proposed would replace that existing outbuilding. This is considered to represent a genuine fall-back position that is likely to be implemented if this planning application is not successful.

The existing site is rather untidy and whilst the approved conversion of the building to a dwelling would result in some enhancement to its appearance, limited alterations to the building are involved and therefore the improvement would be limited. The proposed new dwelling would however achieve a significant improvement to the current run down appearance of the site and would result in the removal of existing containers from the site.

Although the proposal comprises a new dwelling rather than the re-use of a building as referred to in Paragraph 55 of the NPPF, the proposed development and the tidying up of the site, along with the visual enhancements to the wider site would be an improvement in visual terms. This would contribute

positively to the attractiveness of the site. As such it is considered that weight can be given to the argument that the proposed new dwelling would be an improvement to the character and appearance of the site and in combination with the fall-back position referred to above, would provide the special circumstances necessary to justify isolated homes in the countryside.

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

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

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

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

The proposed dwelling would be a simple log cabin design measuring 15.5m x 10.4m in plan with a ridge height of 6.5m. The materials would comprise hardwood for the walls and red cedar shingles for the roof. It is considered that the proposed dwelling would have a mass and form which would be appropriate to its rural context.

The site falls within an Area of Active Landscape Conservation as defined by the Local Development Framework Proposal Map and Local Plan Policy N18 indicates that development that will harm the quality and character of the landscape will not be permitted. Within these areas particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area.

The dwelling would replace an existing building and would not lead to the loss of any particular landscape features. It is not considered that the proposal would have any adverse impact on the quality and character of the landscape.

Would there be any adverse impact on residential amenity?

The proposed dwelling would have sufficient private amenity space in compliance with the advice Council's Space Around Dwellings Supplementary Planning Guidance.

Immediately to the north west of the application site is an existing car repair business and the noise from that business has the potential to impact upon the residential amenity of the future occupiers of the proposed dwelling. The Environmental Health Division (EHD) objects to the proposal on the grounds that a noise assessment is required to consider the road traffic noise from the A53 and the activities of the adjacent car repair business. However, given that consent was recently granted for conversion of the existing outbuilding at the site to a dwelling and in relation to that proposal such a requirement is not considered reasonable. Subject to the imposition of a condition requiring a noise assessment to inform what measures need to be incorporated into the design of the dwelling to ensure acceptable noise levels, it is not considered that there would be any significant adverse impact on residential amenity to justify a refusal.

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

In conclusion, it is considered that the fall-back position and the beneficial impact upon the character and appearance of the site are significant factors that outweigh the harm arising from the unsustainable location of the site. Accordingly permission should be granted.

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP3: Spatial Principles of Movement and Access
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N17: Landscape Character - General Considerations
Policy N18: Areas of Active Landscape Conservation

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (PPG) (2014)

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance relating to the control of residential development

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

Relevant Planning History

94/00239/FUL Erection of building as a field shelter for lambing and rearing of sheep
Approved

15/00613/COUNOT Prior notification for conversion of existing agricultural building to residential
use Approved

Views of Consultees

The **Environmental Health Division** objects to this application on the grounds that a noise assessment is required before a final decision can be made on this application. The road traffic noise from the A53 and the activities of the adjacent car repair business need to be considered. If this objection can be overcome then conditions are recommended regarding hours of construction/demolition, dwelling noise levels and waste storage and collection arrangements.

The **Landscape Development Section** has no objections to the proposal.

The **Highway Authority** has no objections subject to conditions regarding provision of access and parking, surfacing of the access drive and location of gates.

No comments have been received from **Loggerheads Parish Council** and as the due date has passed it is assumed that they have no comments.

Representations

One letter of **objection** has been received, no reasons given.

Four letters of **support** have been received stating that the log cabin will fit in well in the countryside and will be a better building than the original barn. It should achieve all building regulations and will be eco-friendly.

Applicant's/Agent's submission

Application forms and plans have been submitted. These documents are available for inspection at the Guildhall and under the application reference number 15/00814/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

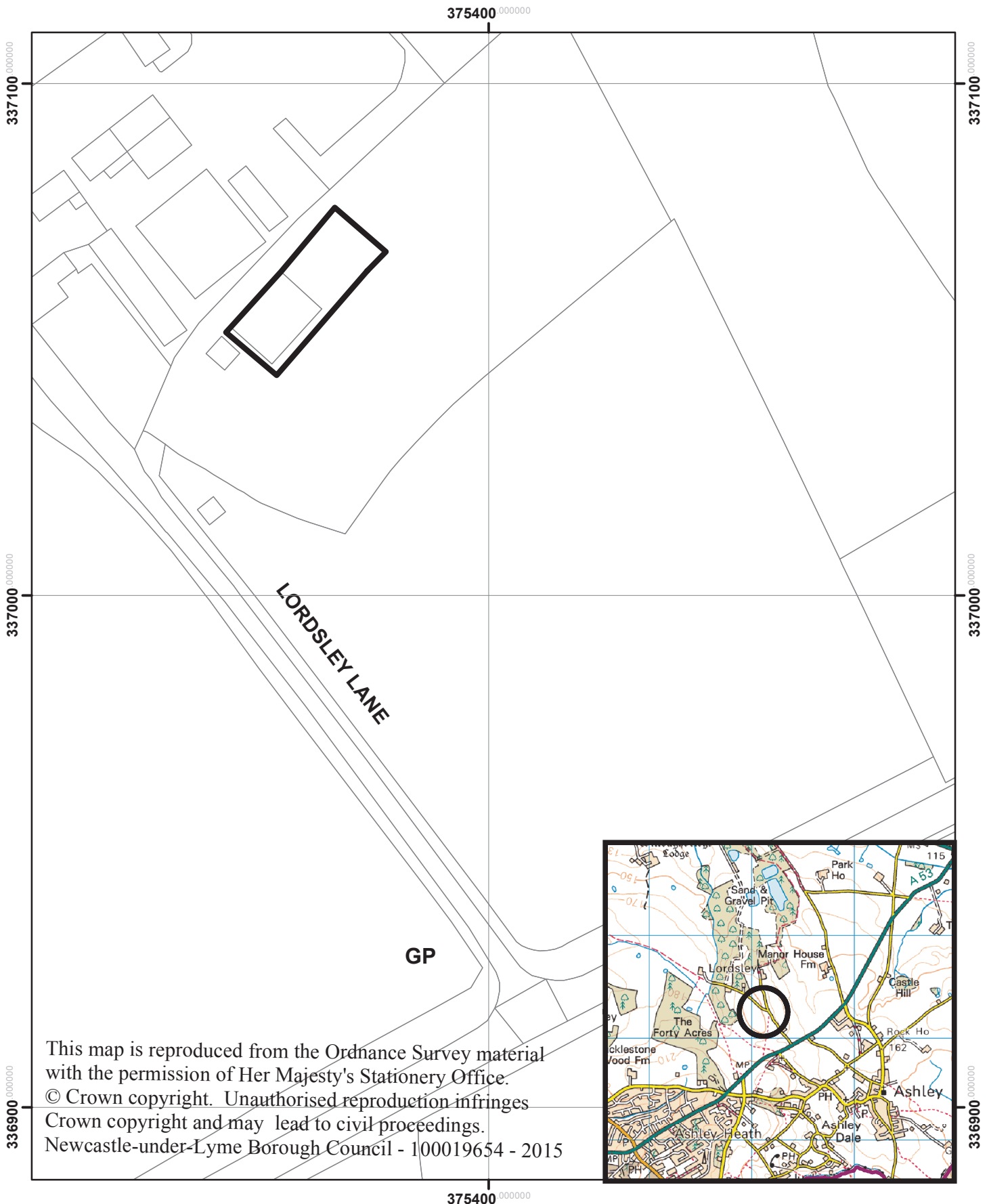
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

23rd October 2015

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APPEAL BY ASPIRE HOUSING AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONSTRUCTION OF 4 NEW 2 BED 4 PERSON SEMI-DETACHED HOUSES AND 1 NEW 3 BED 5 PERSON DETACHED HOUSE AT LAND ADJOINING 86 BUCKMASTER AVENUE, NEWCASTLE

<u>Application Number</u>	14/00765/FUL
<u>LPA's Decision</u>	Refused by delegated authority on 26th November 2014
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	1st October 2015

The Inspector considered the main issue in this appeal to be the effect of the development proposed on the character and appearance of the area, with particular regard to a protected Lime tree on the appeal site.

In dismissing the appeal the Inspector made the following comments:

- Buckmaster Avenue is lined by mature trees along much of its length. The trees have a considerable visual presence in the streetscene due to their height, spread and structure. The character of the area is therefore defined by the presence of these trees along the highway,
- The Lime tree is an attractive specimen, in a prominent visual position and it makes a highly positive contribution to the character of the area as a result.
- The appellant's tree report dated October 2013 concluded that the Lime tree was in good physical condition but had some included bark present in the main forks which should be monitored. It was classified as a moderate quality tree with an estimated remaining contribution of between 20 and 40 years,
- However, the appellant's subsequent tree report, dated June 2014, concluded that the tree had a fairly limited life and will require removal in the not too distant future. This recommendation was on the basis of two structural defects and specifically some 'reaction wood' around the main fork.
- In the intervening period, a major storm had occurred in February 2014. However, the Council undertook an inspection of the tree and observed that it had survived unscathed. Furthermore, as noted by the Council, the presence of reactionary wood is a fairly typical feature of Lime trees as they mature.
- The defects observed during the appellant's 2014 inspection were also recorded during the 2013 inspection and the Council's 2014 inspection and were not found to have caused concern such that they would unduly limit the longevity of the tree nor cause an unacceptable risk of it failing.
- Accordingly, on balance it is considered that the Lime tree does have sufficient safe and useful life expectancy such that it is likely to continue to make a highly positive contribution to the character and appearance of the area. The proposed removal of the tree would therefore result in significant harm occurring as a result.
- It is concluded that the development proposed would be harmful to the character and appearance of the area, with particular regard to the protected Lime tree.
- As the Council is currently unable to demonstrate a five year supply of housing land, the provisions of the National Planning Policy Framework (Framework) are engaged and the presumption in favour of sustainable development therefore applies (paragraph 49).
- There are several factors which do weigh in favour of the development, including the need to provide additional housing in the local area. A proportion of the dwellings proposed would remain in the ownership of the appellant, who is a social housing provider, and would be available to rent and some would be offered for shared ownership. The proposal would therefore result in additional affordable housing units being provided and this weighs in favour of the proposal.
- The site is in a sustainable location and would see the development of a partly previously developed site. These are also positive benefits which weigh in favour of the appeal scheme.

- The proposal would also bring some limited economic benefits.
- The scale, appearance, density and space about the proposed dwellings would be acceptable and the proposal would not be harmful to the living conditions of neighbouring occupants. Safe and suitable access could be achieved.
- There are several positive factors which weigh in favour of the proposal however the loss of the Lime tree would be a significant disadvantage that weighs against the appeal scheme.
- Accordingly, it is concluded that in this case, the sustainability benefits do not outweigh the harm that would be a consequence of the development proposed. Whilst it is acknowledged that the proposal would comply with some elements of local and national policy, it would be contrary to policy N12 of the Local Plan and, as a consequence, would conflict with the development plan overall.

Recommendation

That the decision be noted.

REPORT TO PLANNING COMMITTEE

MID-YEAR DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2015/2016

Purpose of the report

To provide members with a mid-year report on the performance recorded for Development Management between 1st April 2015 and 30th September 2015. Figures for 2013/14 and 2014/15 are also provided for comparison as are targets set within the Planning and Development Service Plans for 2013/14 and 2014/15.

Recommendations

(a) That the report be received.

(b) That the Head of Planning and Development with the Development Management Team Leader seeks to maintain performance of the Development Management team where satisfactory and improve the service provided where our level of performance falls significantly below the targets set out in the Planning and Development Service Plan for 2015/16.

(c) That the next 'Development Management Performance Report' be submitted to Committee around May 2016 reporting on performance for the complete year 2015/16.

Reasons for recommendations

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

1. Background:

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

2. Matters for consideration:

There is an Appendix attached to this report:-

APPENDIX 1: 'NATIONAL AND 'LOCAL' PERFORMANCE INDICATORS FOR DEVELOPMENT CONTROL, 2013/14, 2014/15 and 2015/16: Contains quarterly and annual figures for the national and 'local' Performance Indicators applicable during 2015/16 (comparative figures for 2013/14 and 2014/15 are also shown).

This report is a commentary on the national and local performance indicators as set out in detail in Appendix 1. It follows on from a report that was considered by the Planning Committee at its meeting on the 23rd June 2015 which reported on the performance achieved in 2014/15, and discussed appropriate targets. In addition it follows a report considered by the Planning Committee at its meeting on 18th August 2015 providing a Development Management Performance Action Plan.

3. The performance achieved:

6 indicators are included in the Planning and Development Service Plan for 2015/16. These are referred to in the commentaries below. It is currently predicted that the target set is likely to be met in three cases, whilst in the case of the other three it is predicted that the target is unlikely to be achieved.

INDICATOR - Percentage of applications determined within timescales:-

- (1) 70% of 'Major' applications determined 'in time'**
- (2) 75% of 'Minor' applications determined within 8 weeks**
- (3) 85% of 'Other' applications determined within 8 weeks**

The above challenging targets for 2015/16 are local ones – the former comparable 'national' targets for this indicator as set by the Government prior to May 2010 were 65% and 80% respectively for Minors and Others. The Government has brought in a system of designation of poorly performing planning authorities – which includes the setting of a threshold relating to the speed of determination of Major applications, below which designation is likely. Designation as a poorly performing Local Planning Authority would have significant and adverse consequences for the Council. The Chancellor in his Autumn 2014 Statement announced that the Government would be keeping the speed of decisions on major applications under review, with the minimum performance threshold increasing to 50% of Major decisions on time as performance continues to improve. Parliamentary approval for this change was obtained in September.

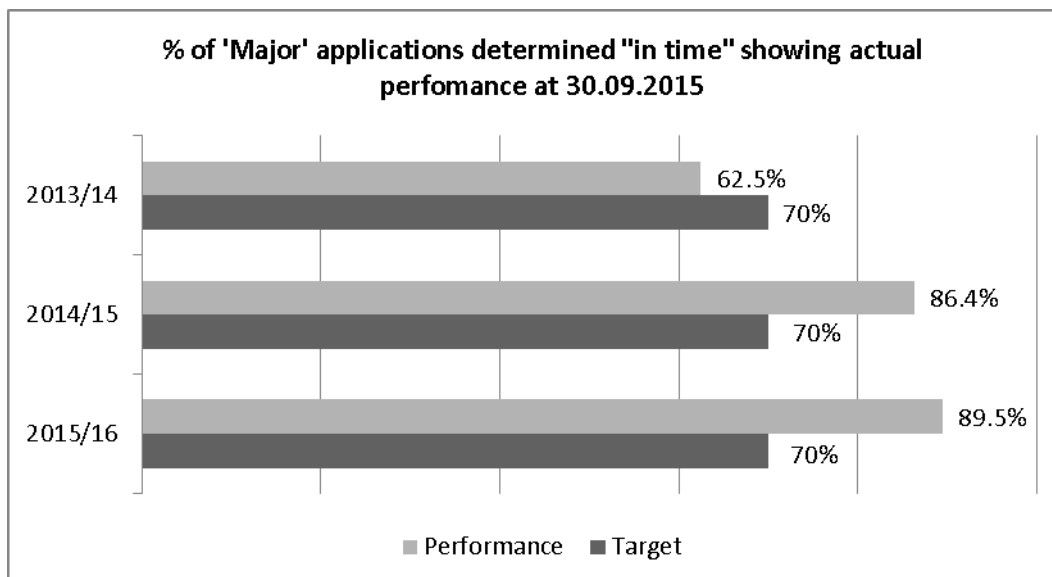
The other designation criteria relates to appeal performance and the Council's performance in this respect was considered in the Annual Appeals Performance report presented to the 26th May 2015 Planning Committee.

The Council is required in any case to determine applications in a timely manner and in the case of each application there is a date after which an appeal can be lodged against the Council's failure to determine it. That date can be extended by agreement with an applicant, but delays in the determination of applications are often quoted by various stakeholders as a symptom of a poor planning system, and the applicant's interests are not the only ones that need to be considered. If an Inspector, in any subsequent appeal, was to conclude that there was not a substantive reason to justify delaying the determination of an application, or that the Council had delayed development which should clearly be permitted, then it would be likely that costs would be awarded against the Council.

In the 'Productivity Plan' presented to Parliament by the Chancellor in July 2015 the Government's aspiration that all planning decisions be made on time is indicated (paragraph 9.17). In addition to reaffirming that local authorities making 50% or fewer of decisions on time are at risk of designation, the Government propose to

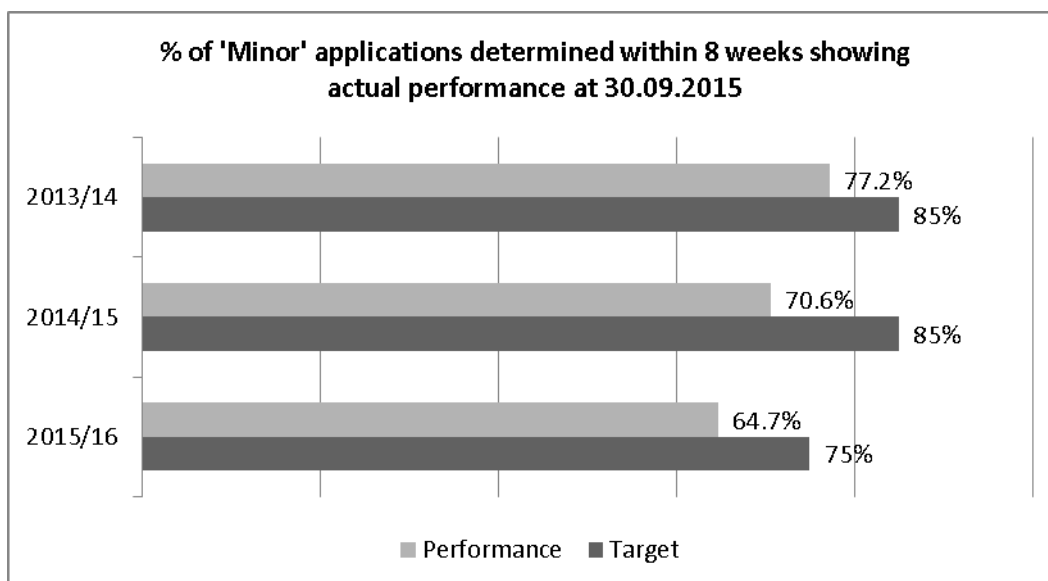
- Legislate to extend the performance regime to Minor applications,
- Introduce a fast-track certificate process for establishing the principle of development for minor development proposals and significantly tighten the 'planning guarantee' for minor applications, and
- Introduce a dispute resolution mechanism for Section 106 agreements, to speed up negotiations and allow housing starts to proceed more quickly

(1) In dealing with '**Major**' applications during 2014/15 we determined 86.4% against the 'local' target of 70% (19 out of 22). Performance for the first half of 2015/16 was 89.5% reflecting a continued focus by the Service on the obtaining of agreements by applicants to extend the determination period (17 out of 19) by the provision of a satisfactory service to them. Based on performance up to the end of October it is predicted that the target will be met.



TARGET FOR 2015/16 LIKELY TO BE ACHIEVED

(2) During 2014/15 70.6% of 'Minor' applications were determined within 8 weeks against the 'local' target of 75% (154 out of 218). Performance for the first half of 2015/16 was 64.7% (90 out of 139) and the predicted result for the year against the 'local' target of 75%, taking into account actual performance up to the end of October, is that this target is unlikely to be achieved, although there are still 5 months to go and it is noted that performance is improving.



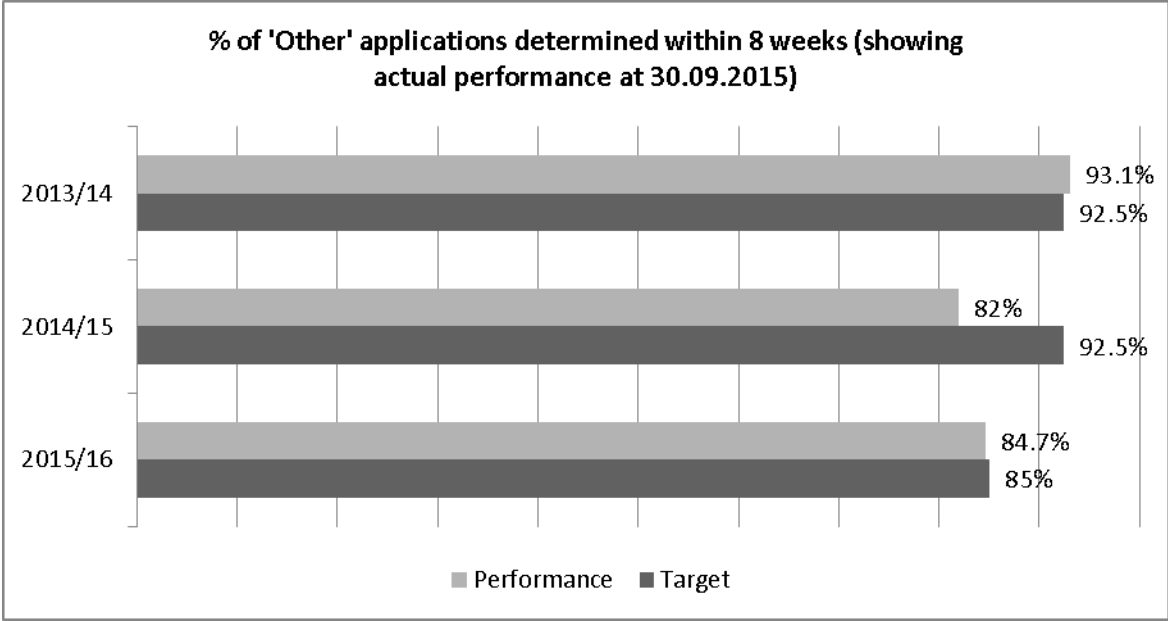
It was hoped that performance on Minor applications would improve this year, however at the mid-point of the year it would appear that performance will drop for the fourth consecutive year. This is primarily as a result of staff absences for long periods due to illness, and there has been a consistent increase in the number of decisions to be made on Minor applications. The backlog of undetermined applications has had, and continues to have, an impact on performance against this indicator.

This target will become even more important when the Government do as they intend and legislate to extend the performance regime to include Minor applications in the designation criteria for poorly performing Local Planning Authority. What the criterion will be for designation is not yet known.

TARGET FOR 2015/16 UNLIKELY TO BE ACHIEVED

(3) During 2014/15 82% of 'Other' applications were determined within 8 weeks (300 out of 366). Performance for the first half of 2015/16 was 84.7% (166 out of 196) compared with the 'local' target of

85%. The prediction for the year is that the target will probably be achieved, bearing in mind performance to date, the applications in hand, measures agreed by Cabinet in July and those within the DM Performance Action Plan agreed by the Planning Committee in August.



TARGET FOR 2015/16 LIKELY TO BE ACHIEVED

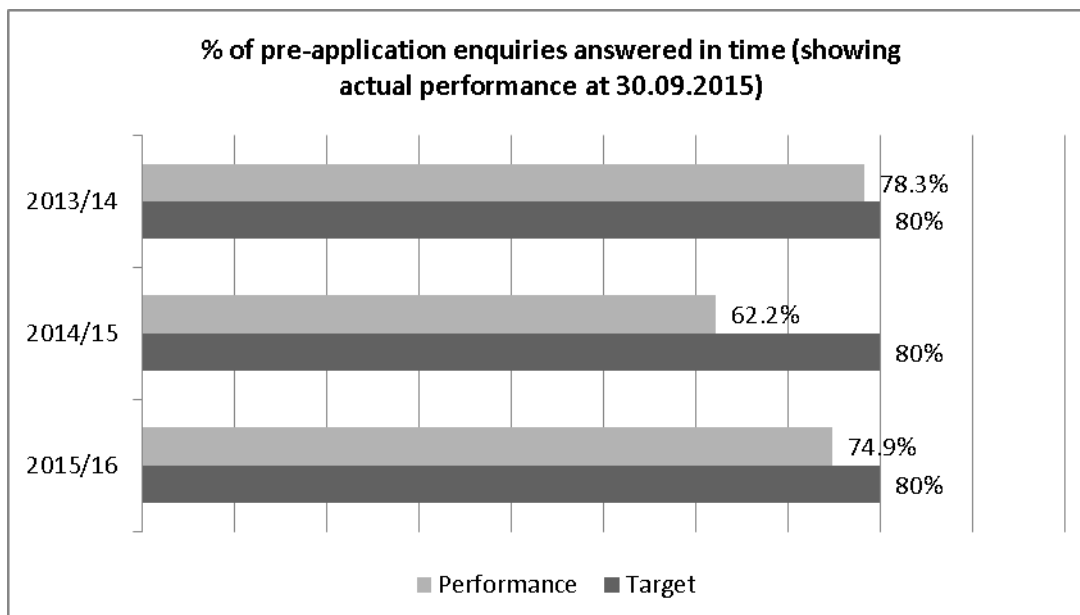
In conclusion the prediction is that two of the three targets relating to speed of determination of applications are likely to be met.

Cabinet at its meeting on 22nd July authorised the spending of up to £20,000 on the securing of short term assistance to the DM function. Since then there have been further staff absences due to ill health. A consultant was secured in September joined by a second in October. Both have been working on a part time basis. The consultants are primarily dealing with Minor and Other applications and are currently ensuring that performance does not continue to drop and will hopefully soon assist in achieving improvements to performance. The Planning Committee approved a Development Management Performance Action Plan in August 2015 and implementation of this should also assist in securing improvements in performance.

INDICATOR - Percentage of pre-application enquiries answered in time

This indicator, introduced in 2013/14, allows for more time for enquiries concerning the more significant proposals, and so more accurately reflects the differing demands which various pre-application enquiries involve. For 'Major' pre-application enquiries the target response time is 35 calendar days, for 'Minor' pre-application enquiries the target response time is 14 calendar days, and for 'Other' pre-application enquiries the target response time is 10 calendar days. The decision as to when an enquiry has been answered can however sometimes be quite subjective, and clarification has recently been provided to officers on this aspect.

The performance for the first half of the year is 74.9% against a target of 80%.



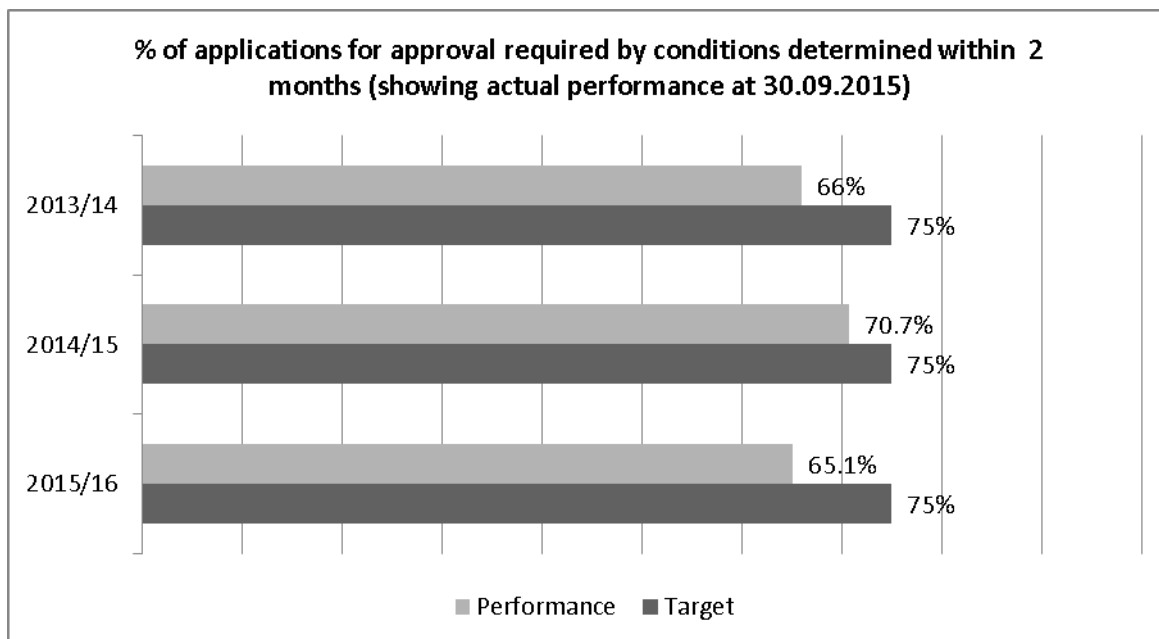
To give members some idea of volume the Service received some 251 such enquiries in the first 6 months of 2015/16 (compared to 332 for the same period last year) of which 15 were 'Major' pre-application enquiries; 62 were 'Minor' pre-application enquiries; and 174 were 'Other' pre-application enquiries.

Whilst the performance at this mid-year point is significantly below the target it is noted that performance has improved from last year and hopefully with the additional consultancy resources referred to above, performance will continue to improve. It is predicted, however, that this target will not be met given the performance achieved to date, unless there is a significant downturn in caseload.

TARGET FOR 2015/16 UNLIKELY TO BE ACHIEVED

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

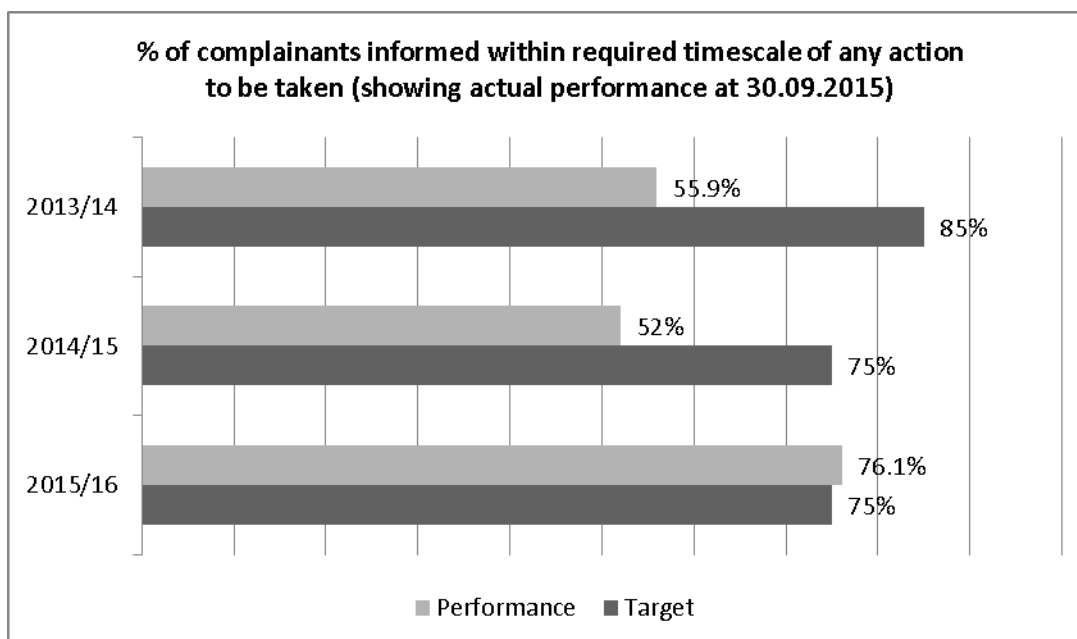
The figure for 2014/15 was 62.2%. The figure so far this year is 65.1%. The target for 2015/16 is 75%. The Service received some 238 such applications in the first 6 months of 2015/16 compared to 312 for the same period in the previous year. Hopefully with the additional consultancy resources referred to above, performance will improve. It is predicted, however, that this target will not be met, given the performance achieved to date, unless there is a significant downturn in caseload.



TARGET FOR 2015/16 UNLIKELY TO BE ACHIEVED

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

Performance was 52% in 2014/15, and performance recorded so far this year is 76.1% compared with the 'local' target of 75%. The Service received some 117 reports about alleged breaches of planning control over the first 6 months of 2015/16, compared with 102 for the same period last year.



This is a significant improvement and reflects well upon the members of staff involved. Cabinet at its meeting on 22nd July agreed a new post of Senior Planning Officer (Enforcement). It is anticipated that someone will be in place by the end of this financial year, if the forthcoming recruitment process is successful, and that this will result in further continued improvements in performance against this target, unless there is a significant upturn in caseload.

TARGET FOR 2015/16 LIKELY TO BE ACHIEVED

Source of information/background papers

- 1. General Development Control Returns PS1 and PS2 for 2013/14 – 2015/16**
- 2. Planning Services own internal records, produced manually and from its uniForm modules**

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APPENDIX 1: 'NATIONAL' AND 'LOCAL' PERFORMANCE INDICATORS FOR DEVELOPMENT MANAGEMENT 2013/14, 2014/15 and 2015/16.

Indicator	Year	Target for year	←-----Actuals-----→					Actual Performance (at 30.9.15)
			April - June	July - Sept	Oct - Dec	Jan - Mar		
% of 'Major' applications determined "in time"	2015/16	70%	88.9%	90%				(89.5%)
Replaced in 14/15 former indicator of percentage of applications determined within 13 weeks	2014/15	70%	100%	80%	100%	50%		86.4%
	2013/14	70%	100%	75%	57.1%	33%		62.5%
% of 'Minor' applications determined within 8 weeks	2015/16	75%	56.9%	73.1%				(64.7%)
	2014/15	85%	86%	64%	66.7%	64.7%		70.6%
	2013/14	85%	71.7%	77.6%	85.4%	74.1%		77.2%
% of 'other' applications determined within 8 weeks	2015/16	85%	81.9%	87.3%				(84.7%)
	2014/15	92.5%	95.2%	74%	82.1%	73.2%		82%
	2013/14	92.5%	92.8%	90.1%	94.6%	96.5%		93.1%
% of pre-application enquiries answered in time	2015/16	80%	84.1%	67.4%				(74.9%)
	2014/15	80%	48%	55.5%	70.2%	75.3%		62.2%
	2013/14	80%	77.3%	78.6%	79.5%	81.4%		78.3%
% of applications for approval required by conditions determined within 2 months	2015/16	75%	62.7%	67.9%				(65.1%)
	2014/15	75%	67%	62.1%	78.9%	73.5%		70.7%
	2013/14	75%	55%	69.7%	83.7%	57.3%		66%
% of complainants informed within required timescale of any action to be taken	2015/16	75%	75%	77%				(76.1%)
	2014/15	75%	44.1%	30.9%	63.9%	81.8%		52%
	2013/14	85%	67.4%	42.9%	53.8%	58.8%		55.9%

Target achieved for complete year

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CONSIDERATION AS TO WHETHER TO MAKE AN ARTICLE 4 DIRECTION IN RELATION TO HOUSES IN MULTIPLE OCCUPATION (HMOs) IN SIDMOUTH AVENUE, GOWER STREET, GRANVILLE AVENUE, NORTHCOTE PLACE, AND PART OF KING STREET.

Purpose of the Report

To consider whether an Article 4 Direction should be made to remove permitted development rights for changes of use from dwellinghouses (Use Class C3) to Small Houses in Multiple Occupation (Use Class C4) in Sidmouth Avenue, Gower Street, Granville Avenue, Northcote Place and part of King Street. This would mean that a planning application would be required to carry out such changes of use.

Recommendation

That an Article 4 Direction is not made.

Reasons

Whilst it is accepted that were a significant number of HMOs to be established in the area in question, an overconcentration on Class C4 uses could arise in this location resulting in an imbalanced community increased noise and nuisance, increased pressure on parking spaces, untidy garden and an accumulation of rubbish, it is not anticipated that a significant take up of the permitted right to change dwellings to small HMOs is likely in this location given the current make up of the area.

1. Background

- 1.1 A request has been received, from ward Councillor Simon Tagg, that the Council consider issuing an immediate Article 4 Direction to remove permitted development rights that allow, without the need for planning permission, changes of use from dwellinghouses (Use Class C3) to small houses in multiple occupation (Use Class C4) within the above area indicated on the plan attached as Appendix A. The reason given for the request is that the news in recent months of a substantial expansion of C4 uses, both in existing and new buildings, has resulted in residents becoming concerned that further changes will be detrimental to the character of the area and will undermine the key planning objective for the promotion of safe and accessible environments where crime and disorder, and the fear of crime and disorder, do not undermine quality of life.
- 1.2 A further request has been received from the 'Residents at Gower, Granville and Sidmouth' association (RAGGS) who make the following comments:
 - the intention of the applicant for the proposed development (application reference 15/00724/FUL) is that the dwellings proposed will ultimately be used as HMOs. This has alerted the community to the ease with which dwellinghouses within the Brampton Conservation Area can become HMOs without a planning application and its consideration.
 - The introduction of student HMOs would quite obviously damage the Conservation Area irreparably.
- 1.3 Use Class C3 is use as a dwellinghouse (whether or not as a sole or main residence) by -
 - (a) a single person or by people to be regarded as forming a single household;
 - (b) not more than six residents living together as a single household where care is provided for residents; or

(c) not more than six residents living together as a single household where no care is provided to residents (other than a use falling within Class C4).

- 1.4 Class C4 is use of a dwellinghouse by not more than six residents as a “house in multiple occupation”
- 1.5 A House in Multiple Occupation (or HMO) is a property that is shared by 3 or more tenants who are not living together as a family and who share basic amenities such as a kitchen, bathroom or toilet facilities but have separate bedrooms.
- 1.6 The General Permitted Development Order 2015 (the ‘GPDO’) permits, without the need for planning permission, a change of use of a building from a use falling within Class C4 to a use falling within Class C3 or vice versa. Unless such permitted development rights are removed either through a condition of a planning permission or through what is termed an Article 4 Direction the local planning authority would have no involvement in such changes of use as it would not involve development requiring planning permission.
- 1.7 An Article 4 Direction is a Direction under Article 4 of the GPDO which enables the Secretary of State or the local planning authority to withdraw specified permitted development rights across a defined area.
- 1.8 An Article 4 Direction only means that a particular development cannot be carried out under permitted development and therefore needs a planning application. This gives a local planning authority the opportunity to consider a proposal in more detail.
- 1.9 Article 4 Directions cannot prevent development which has been commenced, or which has already been carried out.

2. **Legal and Statutory Implications**

- 2.1 There are two types of Article 4 Directions under the GPDO: non-immediate Directions and Directions with immediate effect. An immediate Direction can withdraw permitted development rights straight away; however they must be confirmed by the local planning authority within 6 months of coming into effect to remain in force. Confirmation occurs after the local planning authority has carried out a local consultation. In the case of a non-immediate Direction the Council must undertake publicity, inviting comments, by local advertisement, site display (for a period not less than 6 weeks) and by serving notice on the owner and occupier of every part of the land within the area. The non-immediate Direction does not come into force until it has been confirmed by the Local Planning Authority having taken into account any representations received as a result of the above publicity.
- 2.2 The circumstances in which an immediate Direction can restrict development are limited. Immediate directions can, however, be made in relation to development permitted by Part 3 of Schedule 2 to the GPDO which grants permitted development rights for changes of use including changes from small HMOs to dwellinghouses and vice versa (Class L). An immediate Direction can only be made where the local planning authority consider the currently permitted development presents an immediate threat to local amenity or prejudices the proper planning of an area.

3. **Financial and Resource Implications**

- 3.1 If a local planning authority makes an Article 4 Direction, it can be liable to pay compensation to those whose permitted development rights have been withdrawn, but only if it then subsequently refuses planning permission for development which would otherwise have been permitted development.

The grounds on which compensation can be claimed are limited to abortive expenditure or other loss or damage directly attributable to the withdrawal of permitted development rights.

Compensation is only payable if an application for planning permission for certain development formerly permitted by the GPDO is made within 12 months of the Article 4 Direction taking effect. No compensation is payable for the withdrawal of certain permitted development rights (including that of changes of use relating to dwellinghouses and HMOs) if an LPA gives notice of that withdrawal between 12 months and 24 months in advance.

4. **Issues**

- 4.1 The reason given for the Article 4 Direction, in the request received, is that the introduction of HMOs falling within Class C4 will be detrimental to the character of the area and will undermine the key planning objective for the promotion of safe and accessible environments where crime and disorder, and the fear of crime and disorder, do not undermine quality of life.
- 4.2 The government encourages local planning authorities to help maintain balanced communities. A balanced community is defined as one that is not dominated by one particular household type, size or tenure. Overconcentration of HMOs can cause this imbalance. HMO concentrations can, but do not necessarily, also result in increased noise and nuisance, increased pressure on parking spaces, untidy gardens and an accumulation of rubbish. Whilst concentrations of student accommodation may be associated with low level anti-social behaviour, principally associated with the age profile and different expectations of behaviour of those involved and the more permanent host community, significant crime and disorder, however, is not an issue that is generally associated with such concentrations. Given the terraced nature of some of the properties, and the edge of town centre location, there are it is acknowledged already issues of high levels of demand for on-street parking spaces. Were a significant number of HMOs to be established in the area in question, such harm has the potential to arise.
- 4.3 National guidance indicates that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. To conclude that an Article 4 Direction is justified in this case it is considered necessary to assess the likelihood that permitted development rights will be exercised and that the impacts identified above would arise unless addressed by the Direction. The potential harm that the Direction is intended to address should be clearly identified.
- 4.4 The area that has been suggested for consideration of the imposition of an Article 4 Direction contains a high proportion of large properties a number of which have been subdivided into apartments/flats. Any of the properties currently in use as dwellinghouses, including the apartments/flats, have the potential to be converted into a small HMO falling within Class C4.
- 4.5 As a University town Newcastle does have a relatively high proportion of HMOs due to the student population, although it should be noted that not all HMOs are occupied by students. What HMOs that are in the Borough are concentrated primarily in terraced streets around the town centre and along bus routes, such as in Cross Heath, Silverdale and Knutton. It is known the Keele University propose to increase student numbers to about 13,000, from the current 10,000 and that it will not be able to provide accommodation for the majority of such students and as such more off campus accommodation will be required. Similarly the closure by Staffordshire University of its Stafford Beaconside campus and the relocation of almost 3,000 student places to the University's main Stoke-on-Trent campus is a further factor

- 4.6 In the location that has been promoted for such an Article 4 Direction there are currently only properties which are known by your officers to be HMOs and occupiers of a further similar number of other properties are subject of student council tax exemption, and these may or may not be HMOs. This is a very small percentage of the overall number of properties in the area in residential occupation. Whilst this is a location close to the town centre, where small HMOs falling within Class C4 might be expected because of the available public transport links and proximity to night time facilities, the identified area has not it would appear proved attractive to date for such uses even though planning permission is not required. The construction of purpose built student accommodation, such as on the site of the former Jubilee Baths and on the Ryecroft site, is perhaps likely to reduce the attractiveness of the properties in the identified area for Class C4, although it is too soon to know for certain.
- 4.7 It is accepted that the properties in the area are of a scale where they may be attractive to larger HMOs, as was the Birches 10 Sidmouth Avenue which recently had planning permission refused for its change of use to student accommodation (that decision is now the subject of an appeal). Planning permission, however, is required already for changes of use of dwellings and buildings in other uses to larger HMOs (which do not fall within Use Class C4) and as such consideration could be given to whether the cumulative impact of such uses would give rise to harm in any decisions.
- 4.8 In conclusion, whilst it is accepted that were a significant number of HMOs to be established in the area in question, such harm as identified in paragraph 4.2 has the potential to arise, it is not anticipated that a significant take up of the permitted right to change dwellings to small HMOs is likely in this location. It is not recommended that an Article 4 direction, whether non-immediate or immediate, is made in this case. If, contrary to this recommendation, the Committee consider an Article 4 Direction is to be made it is recommended that at least 12 months and no more than 24 months' notice of the withdrawal of this permitted development right be given.

5 Alternative Options considered

- 5.1 The Article 4 Directions that have been made within the Borough have arisen through Conservation Area Appraisals and as recommendations of within the agreed Management Plans arising from such appraisals. The undertaking of the Appraisal for the Brampton Conservation Area is scheduled next, following completion of the Stubbs Walk Conservation Area Appraisals. Consideration could be given to an Article 4 Direction removing permitted development rights to change from Class C3 to Class C4 uses, along with removal of other permitted development rights, during the Appraisal and preparation of the Management Plan. The recommendation that such an Article 4 Direction is necessary through such a Management Plan will only happen if it is demonstrated that without controls in place through the requirement to obtain planning permission for such a change of use then irreparable harm to the character of the Conservation Area would arise. For the reasons outlined above, it is not expected that the making of such an Article 4 Direction will arise through this process. Furthermore the Conservation Area Appraisal would only focus on the Conservation Area, although consideration would be given to whether any boundary changes were appropriate. Part of the area referred to in Councillor Taggs' request does not lie within the Conservation Area. The map attached as Appendix A indicates the boundary of Conservation Area.
- 5.2 As part of the Local Plan preparation process it may be appropriate to consider where, within the wider Borough, there is the risk of that a concentration of HMOs will be harmful to the identified aims and objectives of that plan. Should it be considered necessary to introduce policies that address the number and location of HMOs it would be appropriate to impose Article 4 Directions in those areas that have been identified at risk of adverse impacts of a concentration of such uses. The benefits of this approach would be that any planning

application that is submitted because permitted development rights have been removed could be considered against adopted policy. It is however not anticipated, for the reasons outlined above, that the area shown on the map attached as Appendix A (Sidmouth Avenue, Granville Avenue, Gower Street, Northcote Place and part of King Street) would be identified as an area where such policies would apply.

6. **Background Papers**

Planning Practice Guidance (PPG) (2014)

7. **Date report prepared**



28th October 2015

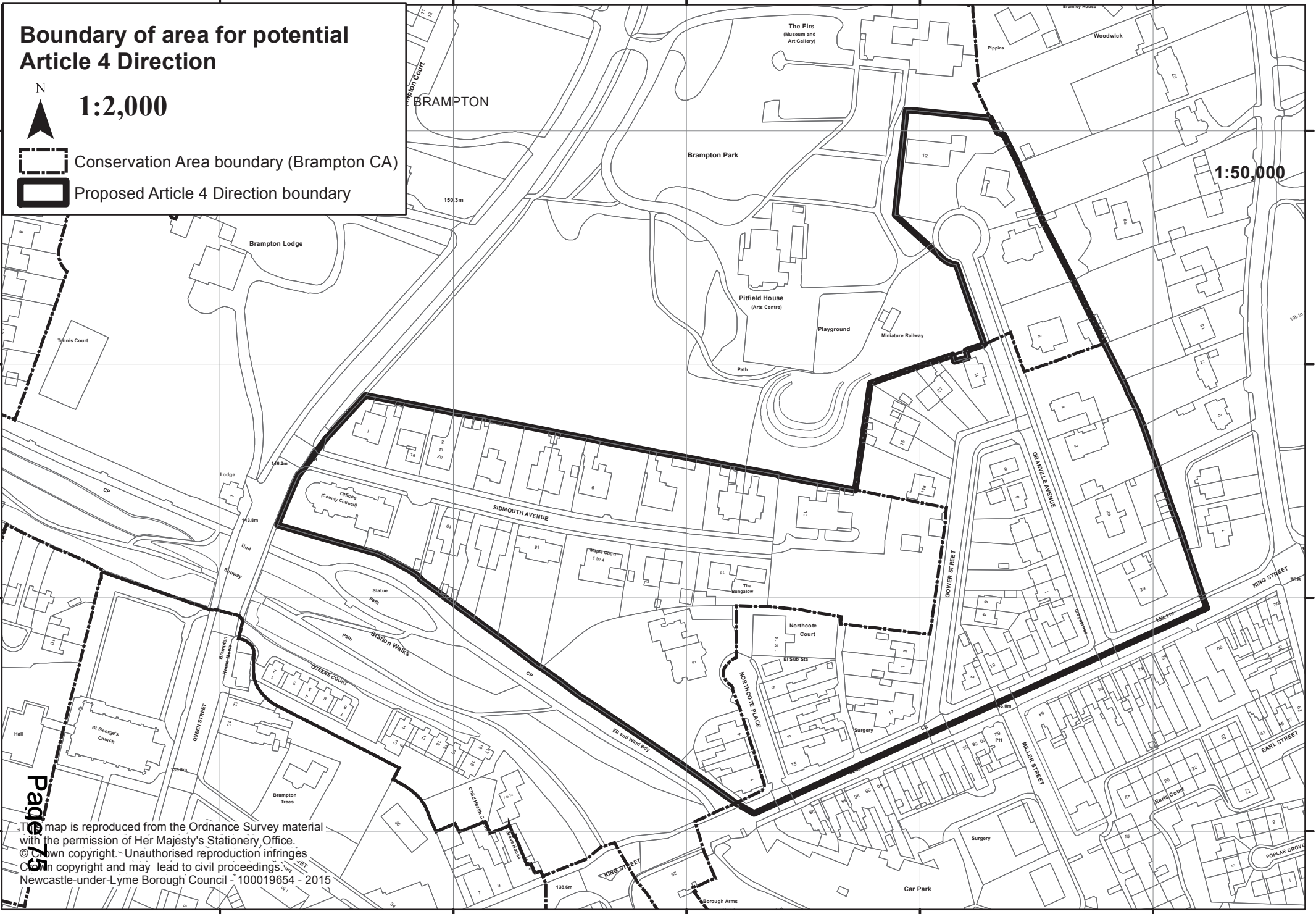
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Boundary of area for potential Article 4 Direction



1:2,000

-  Conservation Area boundary (Brampton CA)
-  Proposed Article 4 Direction boundary



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Draft Shop Front Design Guidance for Newcastle-under-Lyme

Purpose of the Report

To seek approval for a Shop Front Design Guidance document as a Planning Practice Guidance Note, so it can be used by Development Management officers and applicants to improve the quality of development that affects commercial premises especially in the Newcastle Town Centre Conservation Area but also in other historic commercial centres in the Borough.

Recommendation

To adopt the Guidance Note.

Reasons

The document seeks to provide additional information to owners and developers to help improve the visual quality of commercial premises in the Newcastle Town Centre Conservation Area but also in other historic commercial centres in the Borough especially when considering new or existing shop fronts and signage.

1.0 Background

- 1.1 Members may recall that the draft guidance document was accepted by the Planning Committee for consultation purposes on 18th August 2015. A key purpose of the guidance document (attached as Appendix 1) is to provide technical information to assist architects, developers and Development Management officers when designing and assessing schemes affecting shop fronts. The Council will use the guidance when assessing applications for shop fronts, including advertisements and security measures in order to prevent further erosion of quality within its historic town and village centres.
- 1.2 It is envisaged that the document would be a Planning Practice Guidance Note and that whilst it would not form part of the Local Development Framework, it would be a material consideration in the determination of planning applications.
- 1.3 The consultation ran for 6 weeks until 30th September. The draft Guidance document was shared with local organisations like the Chamber of Trade, the Town Centre Partnership and the Newcastle-under-Lyme Civic Society. The press also printed an article setting out the main points and posters and copies of the Guidance were available at the usual places.

2.0 Consultation responses

- 2.1 The Council has received 3 consultation responses during the process which are summarised below.
- 2.2 The **Conservation Advisory Working Party** fully supports the Guidance.

- 2.3 The **Newcastle-under-Lyme Civic Society** felt that the guidance document was informative and well-illustrated and agreed that it was important to emphasise that shop premises sit within a context. They want a stronger emphasis with regard to 'A' boards as their numbers are increasing and cluttering up the streets. If shops have appropriate signage that should reduce the need for 'A' boards. They also want the document to encourage owners to number their properties to help with referencing buildings and that streets also have a street name plate to help with identifying properties.

Response

The Council welcomes the support for the document from the Civic Society. It notes the point in relation to the 'A' boards which are considered on page 11 of the Guidance where it is recognised that they can be hazardous and inappropriate. As this is a matter for the County Council to control and take action over, it is not felt that a stronger stance can be taken by the Borough Council in this Guidance, given the lack of control available and the subject matter of the Guidance itself. In reference to encouraging applicants to number shop fronts, this again can only be encouraged during an application process and it is not considered essential to good design of a replacement shopfront and therefore not essential to alter the guide to reflect this issue. The naming of streets is not relevant to this Guidance and the design of new shop fronts and advertisements. However, this is a Borough Council matter where the road is adopted and has been passed to the relevant section of the Council who will look into it in consultation with the Civic Society.

- 2.4 An **individual trader** responded in relation to security shutters and feels that the Council should consider exceptions to policy and that sometimes external shutters are essential.

Response

Security issues are considered on pages 11 and 12 of the Guidance, stating that external systems will be resisted but might be considered acceptable if they respect the shopfront, the shutter housing box is recessed and if they are of a lattice type which allows visibility through at night. This policy offers a way in which an external shutter might be considered acceptable. It is already Council policy that solid external shutters on buildings in Conservation Areas will not be permitted (saved Newcastle Local Plan Policy B18). In the determination of planning applications regard has to be had to the policy of the development plan for the area, and any other material considerations which includes the prevention of crime and, if adopted, the Guidance.

- 2.5 In conclusion, apart from some typographical alterations, it is not proposed to alter the Guidance following the consultation process.

3.0 Next Steps

- 3.1 Once agreed, this Guidance will form part of the advice documents to consider when discussing and determining planning and advertisement applications. It will be published on the Council's website
- 3.2 If in the future developers appear to be disregarding the guidance, then consideration will be given to making the guidance into a Supplementary Planning Document (SPD) which would require further consideration by the Planning Committee.

4.0 Background Papers

Newcastle-under-Lyme Local Plan 2011

Core Spatial Strategy 2006-2026

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

Conservation Area Appraisals and Management Plans for Newcastle Town Centre and Audley

5.0 **Date report prepared** 29th October 2015

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Newcastle-under-Lyme Shop Front Design Guidance



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Introduction

In the last few years, the character and quality of the town centre has been eroded by unsympathetic alterations, which has an impact on the whole shopping area. To a pedestrian, the most obvious part of a town is often the shop front on the ground floor. Most ground floors in town centres have a commercial use and are vulnerable to change every time businesses change. Some historic shop fronts or features do still survive and should be retained. Attractive, well designed shopping areas encourage shoppers and investment into town centres.

The aim of this guidance is to show owners, occupiers and developers how to improve the visual quality of the area, maintain the special qualities of that area and contribute to the long-term benefit of the commercial area as a whole. It also sets out the basic principles, guidelines and policies the local planning authority will use when assessing applications for new and historic shop fronts and signage but also when assessing other commercial properties such as pubs, banks and other professional businesses. It is also hoped that these principles will help to reverse any adverse alterations and erosion of quality that has taken place over the years especially in the borough's Conservation Areas.

The focus of this guidance is for Newcastle town centre but it should be noted that it is intended to cover the whole borough and all premises at street level, including banks, estate agents and residential conversions.



Planning policy

Planning policies from the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and saved policies from the Newcastle-under-Lyme Local Plan 2011 form the basis of the important considerations the Council will take into account when making decisions about changes to commercial properties, especially those within a Conservation Area or affecting a Listed Building. This guide will supplement and not take away the need for skilled and professional advice. For further information on planning policies which may be relevant to shop front design please see Appendix on page 13.

Planning process

Nearly all changes to a shop front will require planning permission and may also need Advertisement Consent, Listed Building Consent and Building Regulation approval. Information for these permissions and consents is available at www.newcastle-staffs.gov.uk/planning including additional information that is required with any submission such as justification for proposals in a Heritage Asset Statement.

Planning Permission – This is required for any alteration which materially affects the external appearance of the shop front, including installation of blinds/canopies, security shutters, enlarging the size of the fascia or removal/replacement of original elements of an historic shop front where it materially affects its appearance.

Listed Building Consent – If a building affected is a listed building, consent is required for any alterations which affect the character or special interest of that building. Even relatively minor work may also need consent and that may include work to any historic internal fixtures and fittings if they still survive. All work needs to be fully justified in a written statement. **Failure to get Listed Building Consent, if it is required, is illegal.**

Advertisement Consent – Regulations for signs are very specific although some signs can be displayed with “deemed consent” as they are exempt from control. Nearly all illuminated signs require consent as do those above ground floor level, signs on a different wall from the shop front and flags, banners and pole signs. Where

an advert is proposed, details for the consent should include position of the sign on the building, its size, all dimensions, the type of lettering, materials, colour scheme, illuminations and method of illumination.

Displaying an advert without consent is illegal and the Council may prosecute the person responsible. Consent for signage is also time limited and should be renewed.

Building Regulation Approval – Early consultation with building control officers is recommended especially before drawing up proposals for listed buildings. Building Regulation approval is required where proposals involve significant or structural changes to a shop front or any means of escape. Please visit www.stoke.gov.uk for more information.

It is strongly advised that you seek specialist design advice from an architect and the local planning authority before carrying out work to a shop particularly within the Town Centre Conservation Area. No alterations should be done without first gaining the necessary consent. Please note that works to a listed building without Listed Building Consent may be considered a criminal offence which could result in prosecution.





sketch - Forshaw Greaves & Partners, by kind permission

Evolution of shop fronts

Shops were originally part of the ground floor of a house and this would be adapted to what was being sold. Early shops took on the appearance we recognise in the second half of the 18th century – that is a raised window, decorative surround, fascia with the shop name and a central or offset doorway.



Few early shop fronts survive and generally it is later 19th century shop fronts which can be seen today. Clearly some shops were purposely designed buildings but others were modified houses. What is clear is that in general great care was taken to ensure the design and proportion of the building was appropriate to the entire façade of the building.



Shop front designers often showed great craftsmanship and attention to detail. As glass became available in larger sizes, the multi-paned windows were replaced



by larger panes but these were still limited and were often divided up with glazing bars. Large plate glass shop fronts are a modern development.

General principles = Good design that recognises the importance of various elements of the shop front and respects the building and its context.

Scale and proportion

At the design stage, scale and proportion of elements of any new shop front should be paramount. The new shop front should respect and enhance the building which it occupies. No single feature of the shop front should be too dominant.

Quality



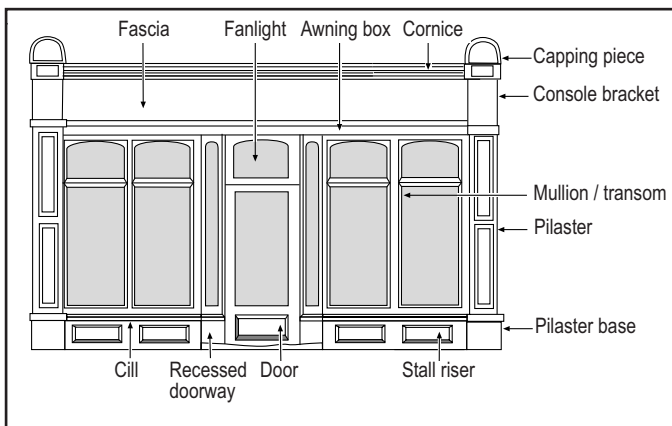
In designing a new shop front there should be a commitment to high quality and standards of craftsmanship. Each new shop front should be designed as a whole and not as a mix of components or separate elements with simply applied mouldings. Materials should be of a high quality and the results should be elegant and appropriate.

Context

New shop fronts should be designed to fit in with their wider surroundings or context. Research of a particular character of a street or place should always be carried out to inform the design of any new frontage. For example, is the new shop front within a Conservation Area or does the area have any specific guidance or guidelines for new design? Assessments of the adjacent buildings or shop fronts and prevailing character of the area including age, design, form, detailing and colour should always be done. If the new shop front is to be built from a traditional style, it should be as well informed and historically accurate as possible and appropriate. In summary, it is important to look at the wider street or terrace, stand back and appraise the area from a number of angles. This does not mean design must be uniform; contrasts can also be effective if the rhythm of the buildings is maintained.



Elements of a shop front



Various elements of a quality shop front all have a particular function. They form a robust frame and provide protection for the goods inside. The frame supports the upper part of the building.

Stallriser – these provide a solid base to a shop front and offer practical protection at low level from damage, water and scuffing. Traditionally the height of stallrisers varies between 450mm and 600mm. Normally they are made from durable material and can be tiles, marble, stone or brick (sometimes rendered). The detail is that they normally have a chamfered or moulded edge. They are also often constructed from painted timber but this is less durable.



Doorways and entrances – doorways traditionally were often recessed and this provides a practical and characteristic feature of a shop front. The entrance was often splayed and set back by at least a metre. The floor



of the entrance was often covered in tiles or mosaic, sometimes with a pattern or the owner's name or business. Doors themselves were often an integral part of the shop front design or complemented it and often had a fanlight which could be open for ventilation or decorative.

The doors often had a solid base to match the stallriser.

Glazing – large undivided areas of glass should be avoided in the majority of cases. Historically the size of the glass was limited and was held in between glazing bars. Window displays should be interesting and changed regularly to stimulate interest and encourage shoppers. In the case of banks, building societies and betting shops etc, it is important to give thought to providing a visual display.





Pilasters – these uprights give the impression of being structural; a visual column marking the end of the shop front which are usually constructed from timber but can be stone or marble. They are based on classical architecture and they have a base or plinth at the bottom providing extra strength and a capping at the top. Pilasters can be plain, panelled or fluted.



Console brackets – this is a bracket usually taking the form of a scroll or other shaped pieces of timber. These are usually topped with a capping, often semi-circular or triangular in shape. These elements frame the fascia.



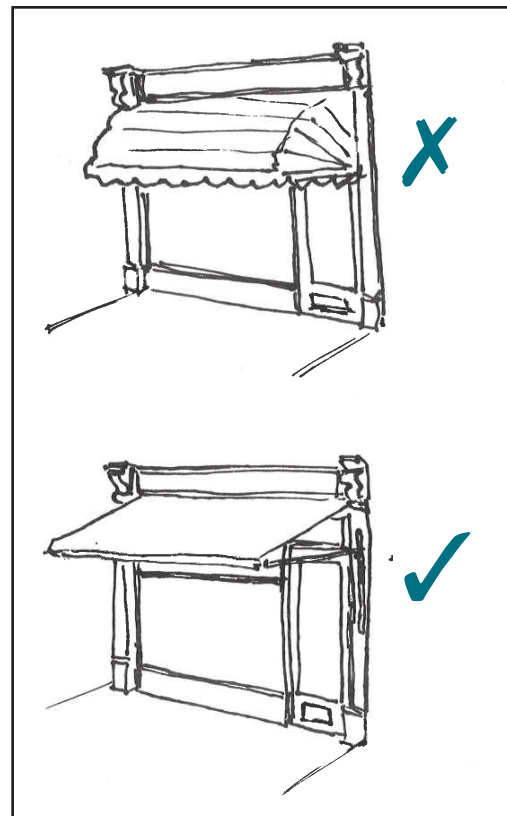
Fascia – the fascia board is between the console brackets and provides space for advertising the business, its name, trade and number. It is an important design element in the framework of the frontage. They should be kept well below the first floor window and can be flat or angled downwards. The height of the fascia should always be proportionate to the size of the shop front and so should not be excessively deep (generally no more than 600mm deep).

Canopies

Canopies were generally added in the late 19th century, mainly on south-facing shop fronts, and were designed as an integral part of the shop front. In general the individual architectural qualities of the building on which the blind is proposed should be carefully considered. Canvas canopies are considered appropriate if they are integral to the shop front and should retract back fully. Plastic canopies and “Dutch” or balloon blinds are not generally considered appropriate, especially within a Conservation Area, and will be resisted.



Cornice – fascia boards usually have a projection above it in the form of a moulded timber cornice finished with a lead or other metal sheet material (flashing). The depth and size of the cornice usually depends on the size of the shop front.



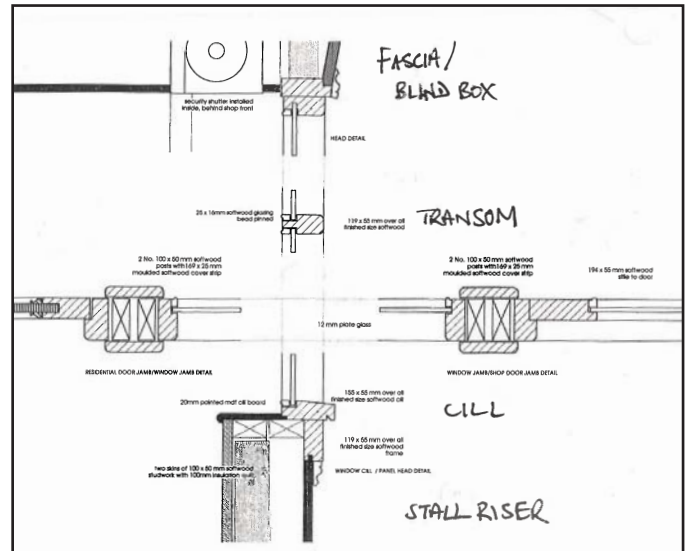
Existing shop fronts

Any proposed alterations to original historic and intact shop fronts will be assessed carefully to ensure that alterations are sympathetic to the character of these features so that the special character is not eroded or compromised. Where elements of original but altered shop fronts remain they should be restored where possible before being replaced. Replacement and reinstatement should be based on appropriate information and photographs if available. Permission will not be given to removal of original shop front elements and it will be expected that they will be incorporated into any new design. Repairs do not require any permission. Maintenance is key - timely repairs on a regular basis can safeguard the condition of buildings and shop fronts. Otherwise major and more costly repairs will be necessary. Derelict buildings or those in need of repair can be an eyesore and harm the overall appearance of a town centre.

New shop fronts



Whether a shop front is a replacement of an existing shop front, or a new opening, a replica of an historic shop front or a contemporary one, the above principles will always apply. Firstly an appraisal is required of the existing shop front. The result should be a shop front which is appropriate to its host building and its context including the design, detailing and general appearance. The outcome of a new shop front based on these principles is that it will enhance the environment of the street by being well designed and of high quality. An attractive shopping environment generally will increase



trade and have a positive effect on economic regeneration. Any modern shop front should still reinterpret the proportions and form of adjacent shops, but in a contemporary manner. If materials are marketed as maintenance-free, this usually means that when they wear out they need to be replaced and cannot be repaired, which is more expensive in the long run.

Materials, details and colour

Traditional shop fronts were constructed from timber and had a painted finish. Carpentry and craftsmanship were essential parts of the construction of any shop front. Materials of new shop fronts should ideally be well-seasoned good quality softwood. Colour is



important and the sensitive use of colour offers scope for improving the appearance of the streetscene. Generally rich, deep colours often look good particularly when used on traditional shop fronts. The use of other colours to highlight details can also be effective. The colours that were available



- They should relate architecturally to the building on which they are part and should not dominate the shop front or building but respect its scale and proportion
- They should be sympathetic to the surrounding scale and streetscene
- They should be constructed from durable, appropriate materials
- The typeface or font for the lettering, its layout and design should be legible and simple

Fascia signs are perhaps the most prominent and effective form of advertising and they do fulfil an important role in communicating the business.



They are the most prominent element of a shop front and therefore the position and design can either create clutter or enhance the streetscene. The fascia advert should be in harmony with all other elements of the frontage and it should not obscure windows or other architectural details. In general simple and contrasting lettering will be the most legible. In the Conservation Area, a timber fascia with applied or painted letters is the most appropriate. Acrylic or shiny materials and reflective lettering will be resisted and where this is currently found, when a change is proposed a better quality material should be chosen. Box fascias should be avoided.

and affordable in the 19th and 20th centuries were limited - dark hues were the most practical. A high gloss finish is more resistant to damage. Corporate colours will be considered but they must be appropriate.

Advertisements

The main kinds of advertisements are fascia signs, projecting or hanging signs and wall mounted signs and "A" boards. Adverts can be harmful to the building where they are displayed or harm the street if the style, lettering, colours or illumination are ill-considered.

Guiding principles -

- Adverts should be designed in scale and proportion with the shop front and the building of which the shop front is part
- They should be to a high standard of design

Hanging or projecting signs

Traditionally a hanging sign was designed to swing and modern hanging signs often mimic these but are static. They can provide a visually interesting and important element of advertising but if too many are found along



Illumination

Illuminated signs will be resisted in Conservation Areas except Newcastle town centre and the commercial part of Audley village because some illumination can be beneficial to the night-time economy. The Council will still ensure that all advertisements are sensitive to their environment and enhance the area. Generally illumination should be necessary, subtle and an integral part of the fascia or shop front either by illuminating individual letters or logo or by “halo” illumination if it complements the design of the shop front. Internally illuminated box fascia or other signs will not be considered acceptable. Any external illumination should be the minimum amount necessary and be discreet. Neon lighting will be resisted as being inappropriate as will flashing or moving illumination.

one location, they can cause a cluttered appearance. This then undermines the principle of the advert attracting the attention of the passer by. The hanging sign should not undermine the appearance of the building, should be appropriately sized and if existing brackets survive they should be re-used. Hanging signs should not be a hazard to pedestrians or vehicles and there should be only one hanging sign per shop. It should not be assumed that every shop can display a hanging sign; they will be carefully controlled and so this should be justified to the local planning authority. Internally illuminated hanging signs are not considered acceptable.

Other adverts – some businesses and shops have a tendency to over advertise and have too many signs - this shows a lack of respect for the character of the streetscene. This includes “A” boards which are often placed outside a shop, outside alleyways or in locations that are nowhere near the shop. “A” boards are often not on private land but are part of the highway and can be a hazard to pedestrians, especially those with pushchairs, those in wheelchairs and the visually impaired. This is the case in parts of Newcastle town centre but they are controlled by Staffordshire County Council. All advertising should be carefully considered and respect the streetscene.

Security

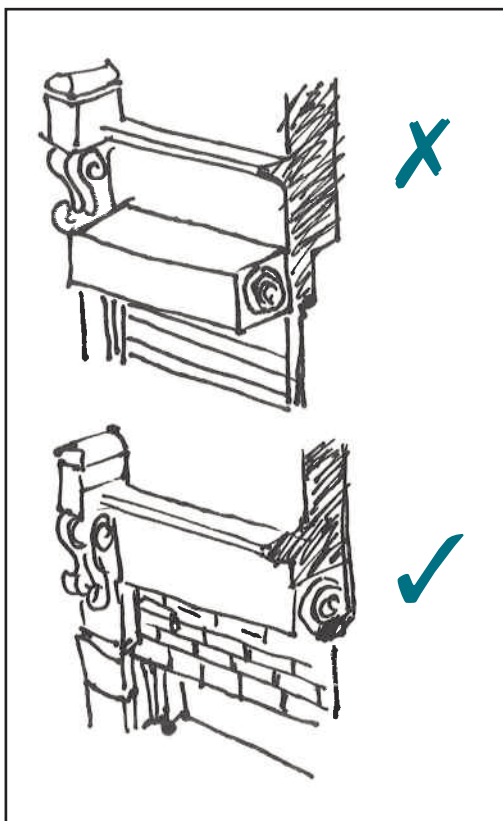


It's obviously very important to owners that their properties are secure but security can be carried out without the need for solid external roller shutters which are not permitted in Conservation Areas. During the day solid shutters create an unattractive and harmful appearance. At night the atmosphere it creates can be intimidating, encourage graffiti and is generally less attractive.

The preferred method of shop security is toughened or laminated glass or lattice shutters installed internally. Neither of these methods require planning permission. Other security methods such as CCTV can be a good deterrent and complement other measures to protect entry points to buildings. Window mullions to reduce the size of the panes of glass also give additional

strength to shop fronts. Simple wrought iron gates can be used to secure doorways. These external additions will require planning permission.

All security systems should feature an open lattice or perforated design, be located back from the display window and painted appropriately, perhaps to co-ordinate with an existing colour scheme. External shutters will be resisted but might be considered acceptable if they are of lattice type, only cover the glass instead of the whole shop front and the box is fully recessed into the shop front.



Accessibility

New shop fronts should enable people to gain access easily. Steps should be avoided but access should also be provided without detriment to the character and design of the shop front. Early discussion is advised with the local planning authority and it is recommended to carry out an independent access audit by a qualified person.

Ideally the entrance to the shop should be designed to be level with the pavement. If this is not possible a non-slip ramp (maximum gradient 1:12) should be provided

or a secondary access point. Whilst it is important to ensure access for all through the main entrance of all buildings, that access should be provided without detriment to the character and design of the shop front. Where the access affects a listed building it is important that there is early discussions with the local planning authority - the disability discrimination requirements need to be reconciled to decide what the impact is on the special character and appearance of the building. For visually impaired people, the entrance can be emphasised through colour and textual contrasts. Overall, the local planning authority will seek to retain the unique character of buildings within the borough.

Buildings on the Local Register

The Council maintains a Register of Locally Important Buildings and will consider including historic shop fronts to encourage preservation of worthy features. This does not give the Council extra statutory powers to protect these elements specifically; it will ensure that the value of the building and its elements is recognised and valued where possible, including consideration of grant aid.

www.newcastle-staffs.gov.uk/localregister

SUMMARY

- Decide new or alter existing
- Appraise building and consult architect
- Discuss with the Council if there are any specific consents or requirements
- Prepare design
- Make planning application/advertisement consent
- Building regulations
- Following consent, tender from builders
- Install shop front /start repairs or alterations

Appendix : Planning policies which may be relevant for shop front design

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

CSP1 – Design Quality

CSP2 – Historic Environment

Newcastle-under-Lyme Local Plan 2011 (saved policies)

- B5: Control of development affecting the setting of a Listed Building
- B6: Extension or alteration of Listed Buildings
- B9: Prevention of harm to Conservation Areas
- B10: The requirement to preserve or enhance the appearance of a Conservation Area
- B13: Design and development in Conservation Areas
- B14: Development in or adjoining the boundary of Conservation Areas
- B16: Shop fronts in Conservation Areas
- B17: Awning, canopies and blinds in Conservation Areas
- B18: Security shutters in Conservation Areas
- B19: Illuminated signs in Conservation Areas
- B20: Illuminated fascia and other signs in Conservation Areas



Confirmation of Tree Preservation Order

LAND ADJACENT TO THE HUXLEY BUILDING, KEELE UNIVERSITY. TREE PRESERVATION ORDER NO.169 (2015)

Town & Country Planning Act 1990

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

The Order protects a tree situated on land adjacent to the Huxley Laboratory, within the campus of Keele University. The Order was made to safeguard the longer term visual amenity that the tree provides after a planning application received by the Council included for the removal of the tree but failed to demonstrate that this was necessary to facilitate the development.

The Order was made using delegated powers on 21 May 2015. Approval is sought for the Order to be confirmed as made.

The 6 month period for this Order expires on 21st November 2015

RECOMMENDATION

That Tree Preservation Order No 169 (2015), land adjacent to the Huxley Building, Keele University, be confirmed as made and that the owners of the site be informed accordingly.

Reasons for Recommendation

Your officers are of the opinion that the longer-term visual amenity of the tree is best secured by the making of a Tree Preservation Order. Your officers are of the opinion that the tree is generally healthy at present and is of sufficient amenity value to merit the making of a Tree Preservation Order. It is considered to be an appropriate species for the locality and provide public amenity value due to its form and visibility from public locations. The making of the Order will not prevent the owner from carrying out good management of the tree nor in 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 tree which is necessary to safely manage it.

Representations

One representation has been received from the agent to Keele University requesting that the Order is not confirmed, as follows:

1. Introduction

1.1. This objection relates to the tree identified as T1 on the plan attached to the Tree Preservation Order (No. 169) issued on 21 May 2015. This TPO has been promoted on the basis that the loss of the tree would have a detrimental effect on the visual amenity of the site at which it is located and the locality more generally.

1.2. The Order alleges that the removal of this tree will result from development proposals for an extension of the Huxley Building, within the curtilage of which the tree is located.

2. Background

2.1 The planning application for the extension proposals was submitted in March 2015 and the Council's Landscape Section submitted comments on 29 April. The comments expressed concern about the loss of trees but did not raise an objection.

2.2 The comments included a request for further information regarding the justification for the loss of the subject tree. This request was not drawn to the attention of the applicant until after the Committee report on the application had been prepared but comprehensive information was immediately provided to both the Planning Officer and the Council's Arboriculturist. The information, which was provided on 19 May, confirmed that the presence of services and drainage infrastructure beneath, and in the immediate vicinity of the subject tree raised serious concerns regarding whether the tree could be retained. It was also explained that the tree would be extremely close to the extended building with all that this implied for the health of the tree and comfort of the building occupants.

2.3 There was no response from relevant officers of the Council to this information and it is not known whether the submitted material was properly considered before the TPO was issued on 21 May.

2.4 Before the arrival of the TPO, the officer report on the extension application became available from which it was clear that a condition would be attached to any permission which would require tree protection measures during construction, 'inclusive of provision to retain tree T3' (the subject tree).

3. The Objection

i) Need for the TPO

3.1 Against the background outlined above, the TPO is unnecessary and serves only to duplicate a planning condition. In this regard, the situation is analogous to the requirement to enter into a S106 Agreement when a planning condition could be used to secure the same outcome. There is an established planning principle (para 12 of Circular 11/95) that a Legal Agreement should not be entered into where a planning condition can be used for the same purpose. In this case, a TPO is being used to secure an outcome which can be controlled by a condition attached to a planning permission. It is therefore not expedient to make the Order.

3.2 Condition 3 of permission reference 15/00235/FUL sets out requirements for protection measures which are geared towards ensuring the retention of the subject tree. The approved development cannot be implemented without compliance with the condition. In the event that the measures required by the condition indicate that the tree cannot be reasonably retained, and the Local Planning Authority will have full access to all investigations relating to the tree, it would be necessary to seek approval for the removal or variation of the condition. As such, and by way of the requirements of Condition 3, the Council retains full control over the future of the subject tree. The TPO will not provide any greater degree of control.

3.3 In the event that there proves to be compelling evidence that the tree cannot reasonably be retained and to require its retention would jeopardise the successful implementation of the approved extension to the Huxley Building (valued at over £7m), the Local Planning Authority will need to consider the same issues and make the judgements as to whether the tree or the development should receive priority in responding to an application to remove/vary Condition 3 or approve works to a protected tree.

ii) Amenity

3.4 It is accepted that the tree, together with others in the locality, makes a positive contribution to visual amenity. The character of the locality will change significantly following construction of the extension and the amenity value of the tree will be, as it will then exist in isolation, significantly reduced as compared to its existing amenity contribution. Moreover, and because of the tree's proximity to the approved extension, it is wholly unrealistic to expect that no pruning will be required. As such, the appearance of the tree will be transformed and its visual qualities reduced.

3.5 The requirement to apply under the Order to implement ongoing crown management to maintain adequate standoff from the approved extension will also place an unnecessary administrative burden on the University.

3.6 Against this background, it is difficult to conclude that the decision to issue the TPO was made taking into account future amenity and management circumstances rather than existing conditions of amenity and appearance.

iii) Context

3.7 The justification for making the TPO lacks an appropriate context. First, it ignores the fact that there will be new tree planting at appropriate locations as required by Condition 4 of permission 15/00235/FUL. Second, it ignores the presence of some 20-plus trees located within 20 metres of the Huxley extension site. These trees contribute positively to the appearance and visual qualities of this part of the campus. This situation will not be changed by either the presence or absence of the subject tree.

3.8 Thirdly, and at a broader level, it is a matter of pride that the University campus is well populated with trees of all ages, and all specimens are well managed. TPOs are not required to protect trees which are 'at risk' because the University makes every effort to retain high quality trees and where loss is absolutely necessary, supported by robust evidence, replacement planting will always take place. The University is able to demonstrate through past action that it is a responsible landowner which actively promotes tree planting, retention and good management. Legislative controls are not necessary to manage its arboricultural activities.

4. Conclusions

4.1 It is not expedient to make the Order. The outcome which the TPO seeks is already secured by a planning condition. Planning conditions should take priority over other means of control, in this case the TPO, as advised by established planning imperatives.

4.2 It is also not expedient to make the Order on the basis that if it was to be confirmed, it would impose an unnecessary and unfair administrative burden on the University which has demonstrated a long history of responsible stewardship of trees across its estate.

4.3 Although the subject tree currently contributes positively towards the visual amenity of this part of the campus, the appearance of the site will dramatically change with the implementation of the Huxley extension. The subject tree will remain in isolation and in a reduced form and its contribution to visual amenity will no longer justify the making of the TPO which is focussed on current, rather than future, amenity considerations.

4.4 The TPO lacks an appropriate context. The appropriate context includes site specific and campus-wide considerations.

4.5 For the reasons set out, it is requested that the TPO (No 169) is not confirmed.

Your officers comments as follows:

Background – The Landscape Development Section has always indicated that it would object to the removal of the tree for reasons of avoidable footpath realignment or new underground services. The TPO was made due to concern that the tree could be at risk of being removed as an obstacle to development after requested information was submitted that was incomplete and inconclusive.

The Objection – A TPO is a more robust mechanism than a planning condition in conserving a tree as the tree can be removed independently of a planning condition if the planning permission is not progressed. The TPO on the oak tree would ensure its conservation irrespective of whether the building is constructed, whilst the planning permission would take precedence over the TPO if circumstances changed, and until all design issues have been finalised it would be prudent for the TPO to be maintained.

Amenity – It is not disputed that the oak tree makes an important contribution to visual amenity and the Landscape Development Section considers that this would be increased if all other trees on the plot are removed and the building extension constructed, and that it is possible for the tree to be satisfactorily incorporated into the development and maintained as a suitable specimen. It is precisely the proposal to develop the site that makes retention of the tree important.

Making a TPO application is a relatively simple task and it would require little in the way of additional administration by the university for any necessary tree work.

Context – The oak tree stands independently from the nearest group of trees and makes a visual contribution in its own right. The proposed replacements for the trees to be felled on the site are to be located elsewhere on the university campus and would not make a contribution to the development site or immediate locality. Both of these factors make the retention of the oak tree of greater importance.

It is not disputed that the trees on the campus are well managed by the university, however in the context of the development of the Huxley Building there is concern that pressures arising from construction of the building may make removal of the tree the convenient option. Also that resentment of the tree after the building has been built could also create pressure for the tree to be pruned or felled.

Issues

The tree is situated in the grounds of Keele University between the tuition buildings of the Huxley Laboratory and Lennard Jones Laboratory to the north of Keele Hall Road. It is a mature single stemmed oak tree, the finest specimen of a group currently growing within a small green space.

The oak tree is a prominent feature on Central Drive and can be seen from Keele Hall Road and the adjacent open spaces. It is significant to the vicinity and provides an important contribution to the area. Its loss would have a detrimental effect on the visual amenity of the site and the locality.

A planning application was received in March of this year (reference 15/00235/FUL) for the extension of the existing educational building which included for the removal of all of the eight mature trees on the site. Seven of these trees were shown to be removed to facilitate the building however it was unclear as to why it was proposed to remove the eighth, the oak tree, and the applicant failed to provide sufficient information with regard to this, giving rise to concern that the tree could be removed as an obstacle to development.

Your officers inspected the tree in May and carried out a TPO assessment, and found the tree worthy of an Order. It is considered to be in good health, visually important and an amenity to the locality, with the prospect of continuing to provide this for many years. The Order was made and served on 21 May 2015 in order to protect the long term well-being of the tree.

The planning application was permitted on 17th June with the condition that tree protection information should be submitted for the successful retention of the oak tree.

Consideration should be given as to whether the Order should be confirmed in the light of condition 3 of the planning permission requiring that the tree is protected during the construction phase of the proposed development, and whether this would make the TPO unnecessary. A Tree Protection Plan has not yet been submitted to satisfy the condition with respect to the tree. If the Order is to be confirmed, this must be done before the Provisional Order expires on 21st November which is before all issues relating to the build are likely to have been resolved.

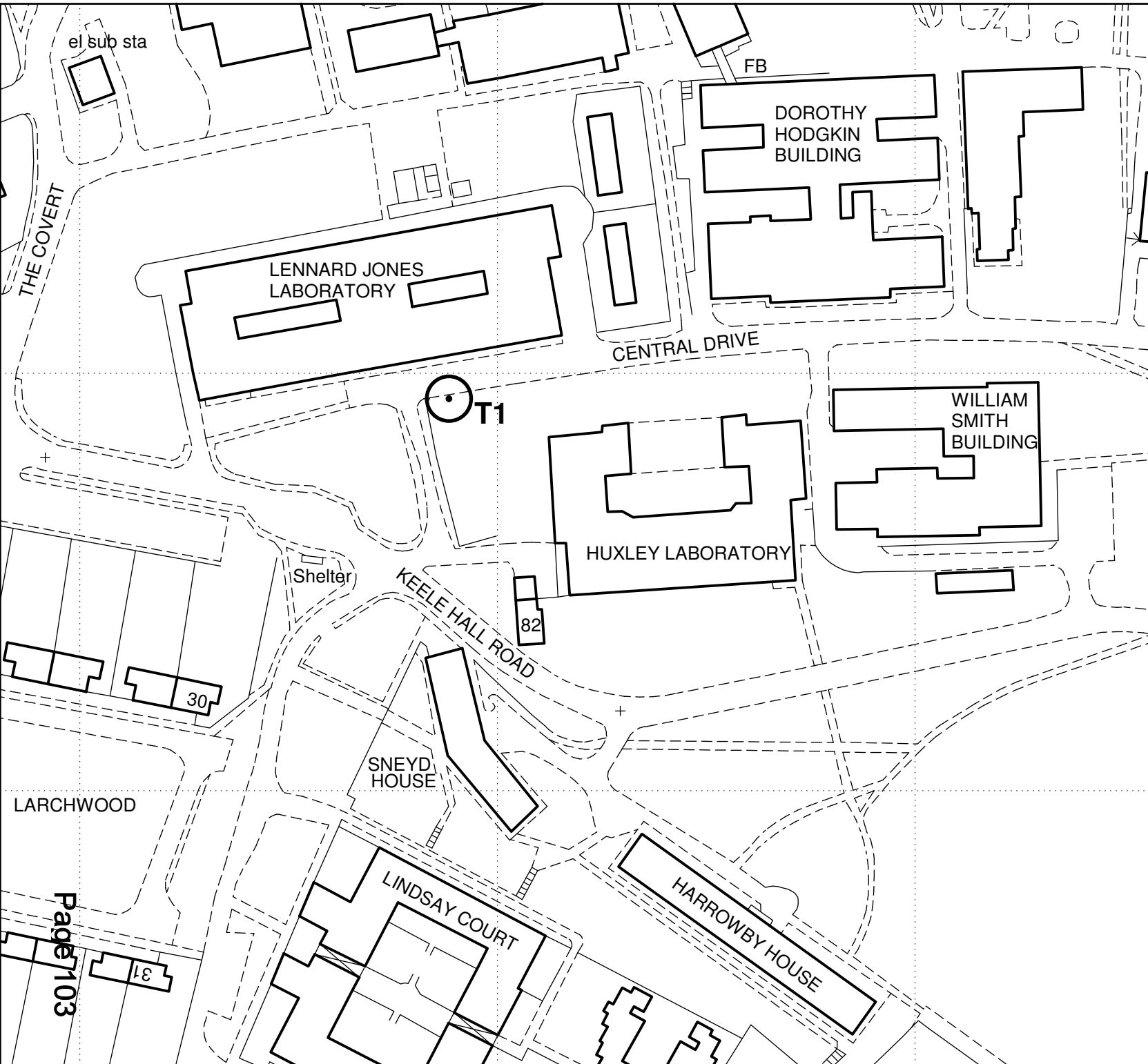
The planning officer agrees that a TPO would carry more weight to the retention of the tree but adds that if there are genuine technical problems which are uncovered to prevent retention it would be difficult to oppose its removal even with a TPO.

Your officers are of the view that the TPO would be more robust in protecting the tree and that on balance it should be confirmed.

Date report prepared

12 October 2015

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Signed _____
 Date _____



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

TITLE:
**Huxley Building
 Keele University**

DESCRIPTION:
**Tree Preservation Order
 No 169 (2015)**

DRAWN BY:
PJS

SCALE:
1:1250@ A4

DATE:
May 2015

DRAWING NO.
TPO 169

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Confirmation of Tree Preservation Order

LAND AT 7 PARK AVENUE, WOLSTANTON.

Tree Preservation Order No.170 (2015)

Town & Country Planning Act 1990

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

The Order protects trees situated in the grounds of 7 Park Avenue, Wolstanton. The Order was made to safeguard the longer term visual amenity that the trees provide after issues relating to tree retention and removal with regard to the development of the site gave rise to concern that the trees may be felled to remove them as an obstacle to development.

The Order was made using delegated powers on 2nd July 2015. Approval is sought for the Order to be confirmed with amendments.

The 6 month period for this Order expires on 2nd January 2016

RECOMMENDATION

That Tree Preservation Order No 170 (2015), land at 7 Park Avenue, Wolstanton, be confirmed with amendments and that the owners of the site be informed accordingly.

Reasons for Recommendation

Your officers are of the opinion that the longer-term visual amenity of the trees is best secured by the making of a Tree Preservation Order. 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.

Representations

One representation has been received from the developers arboricultural consultant on behalf of the developer objecting to the TPO, listing the following reasons:

- The plan included in the Order is not to a suitable scale to determine which trees are protected.
- The reasons for making the order are insufficient. The trees do not score 16+ in the TEMPO assessment to definitely merit a TPO for their contribution to the amenity of the wider area. No description of public benefit has been given.
- Some of the trees are causing structural damage.

- Only 2 trees should be protected.
- The TPO has been made to frustrate a planning application.
- There are already sufficient TPO trees on this site and the neighbouring property to protect the amenity value of the wider area.

Your officers comments as follows:

The accepted scales for Tree Preservation Order plans are based on the Ordnance Survey scales of 1:2500 or 1:1250 depending on the level of detail required. A slightly larger scale of 1:1000 has been used for this TPO to enable the approximate location of each tree to be clearly shown whilst retaining 4 street names to enable unambiguous site location. With the level of survey information available, plans of this general scale are common for Tree Preservation Orders and it is not considered that the chosen scale is inappropriate.

The method of assessment used by the Landscape Development section is the tree assessment criteria for inspection as per DETR recommendations in 'Tree Preservation Orders – A Guide to the Law and Good Practice' (March 2000). The assessment acknowledges that the trees are somewhat obscured from Park Avenue by existing trees at the front of the property but many of these are scheduled to be removed and the TPO trees will consequently become significantly more visible, and as a result will be important to the future development of the site. The trees, along with those to the rear of 5 Park Avenue which are included in TPO number 11, are visually important to the publicly accessible path to the rear of the properties and can be seen between the properties from Woodland Avenue. This additional description has been added to the amended Statement of Reasons to clarify the reasons.

If one or more of the TPO trees is causing structural damage, an application, accompanied by written technical evidence from an appropriate expert, can be made for appropriate work.

It is accepted that the exact number of trees that will be retained in the longer term will ultimately be determined by the development proposals for the site and the resultant planning application, which will take precedence over the Tree Preservation Order. This should be proportionate, and appropriate to the site.

TPO 11 was made in 1969 and of the original 8 trees included at 5 Park Avenue only 4 remain. These contribute a relatively small number to the 20 currently growing on the site. Although the sycamores trees may not have been thought worthy of inclusion in the Order in 1969 it is now considered that after the intervening years they are important to the character of the site and amenity of the locality.

Issues

The trees are situated in the grounds of 7 Park Avenue, Wolstanton, which is run down and unoccupied and in the process of being redeveloped. They are a group of sycamore trees adjacent to the south-eastern boundary of the site which complement the trees on the adjacent 5 Park Avenue included in Tree Preservation Order number 11. They are mature and can be seen from the path at the rear of the site and to some extent from Woodland Avenue and, when the site is developed and trees that are of poor quality or an obstacle to development are removed, will be visible from Park Avenue.

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

A planning application was received in March of this year (reference 15/00174/FUL) to redevelop the existing detached residence and ancillary coach house into 14 apartments and 1 house. This included for the removal of a high proportion of the trees on the site and failed to demonstrate that the retained trees would not be adversely affected by the scheme. This gave rise to concern that trees could be felled to remove them as an obstacle to development.

The planning application was withdrawn in June 2015 and the Landscape Development Section has not been approached since with regard to alternative proposals.

Your officers inspected all of the trees on the site in June 2015 and carried out a TPO assessment despite difficulty of access due to site restrictions and dense shrubby vegetation. Although there are trees on the site of low quality, the sycamore trees to the rear of the property were found worthy of an Order. They are considered to be in reasonable health as far as can be seen, 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 2nd July 2015 in order to protect the long term well-being of the trees.

Amendments

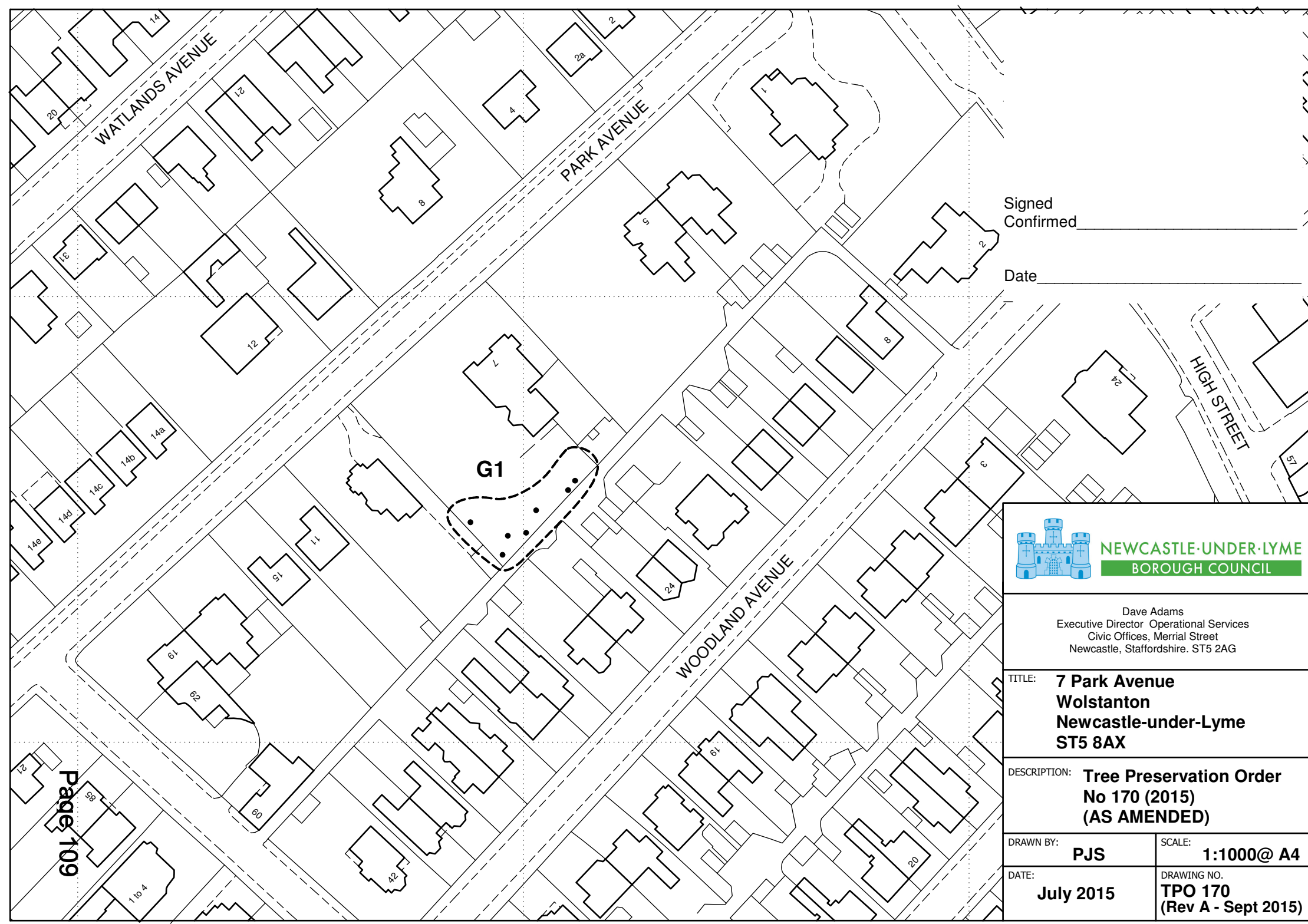
Since the provisional Order was served there has been clearance of shrubs and vegetation that had made access and visibility difficult. It is apparent there are 7 rather than 8 sycamores worthy of retention and these individual trees within the group have been plotted more accurately on the plan and the schedule amended accordingly. The symbol used for outlining the group on the plan has also been amended from a solid to a broken line as recommended by the regulations.

Additional explanation has been included in the Reasons for Making the Tree Preservation Order to clarify how the trees are visually important.

Date report prepared

30th September 2015

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Signed _____
Confirmed _____

Date _____



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

TITLE: **7 Park Avenue
Wolstanton
Newcastle-under-Lyme
ST5 8AX**

DESCRIPTION: **Tree Preservation Order
No 170 (2015)
(AS AMENDED)**

DRAWN BY: **PJS**

SCALE: **1:1000@ A4**

DATE: **July 2015**

DRAWING NO. **TPO 170
(Rev A - Sept 2015)**

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