

Public Document Pack

Date of meeting	Tuesday, 8th December, 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(s).
- 4 **Application for Major Development - Tadgedale Quarry, Eccleshall Road, Loggerheads. Renew Land Developments Ltd. 15/000015/OUT** (Pages 7 - 28)
- 5 **Application for Minor Development - 10 Sidmouth Avenue, Newcastle. The Birches (Staffs) Ltd. 15/00724/FUL** (Pages 29 - 40)
- 6 **Application for Minor Development - Wereton Road Community Park, Queen Street, Audley. Children and Residents of Audley. 15/00923/FUL** (Pages 41 - 46)
- 7 **Application for Minor Development - Chapel Barn, Shraleley Brook Road, Halmerend. Mr & Mrs Frankish. 15/00919/FUL** (Pages 47 - 54)
- 8 **Application for Minor Development - Stone Quarry Farm, High Street, Alsagers Bank. Mr Evans. 15/00880/COU and 15/01010/DOB** (Pages 55 - 62)
- 9 **Appeal Decision - 22 Boon Hill, Bignall End** (Pages 63 - 64)
- 10 **Appeal Decision - Land adj Windclose Cottage, Stone Road, Chapel Chorlton** (Pages 65 - 68)
- 11 **Tree Preservation Order - Land at Wrekin, Mucklestone Wood Lane, Loggerheads. TPO 171** (Pages 69 - 72)
- 12 **Tree Preservation Order - Land at Fintry, Pinewood Road, Newcastle.TPO 172** (Pages 73 - 80)

13 Application for Financial Assistance (Historic Buildings Grant) (Pages 81 - 82)
- The Old Vicarage, Congleton Road, Mow Cop

14 Members Protocol on Planning Matters (Pages 83 - 96)

15 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, 10th November, 2015

Present:- Councillor Mrs Sophia Snell – in the Chair

Councillors Cooper, Hambleton, Heesom, Mancey, Northcott, Owen, Simpson, Turner, Williams and Williams

Apologies Apologies were received from Councillor(s) Fear, Proctor and Welsh

1. APOLOGIES

Apologies were received from Cllr Miss Reddish, Cllr Proctor and Cllr Welsh.

2. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

3. MINUTES OF PREVIOUS MEETING(S)

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

4. MINUTES OF THE PLANNING COMMITTEE HELD ON 21ST JULY 2015

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

5. APPLICATION FOR MAJOR DEVELOPMENT - NEWPAK PRODUCTS, LONDON ROAD, CHESTERTON; CAVE MAN TRAINING/ROB DUNCAN PLANNING CONSULTANCY LTD; 15/00729/COU

Resolved: (a) That the application be permitted subject to 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.
2. A condition restricting the number of people per class to 50 and a 30 minute period between each fitness class.
3. A condition requiring signage of the car park to be specified and provided.

(b) That officers write to the applicant regarding parking provision.

6. APPLICATION FOR MAJOR DEVELOPMENT - FORMER DIAMOND ELECTRONICS, WEST AVENUE, KIDSGROVE; REVELAN GROUP; 15/00885/FUL

Resolved: That the application be permitted and that condition 5 be removed subject to all the relevant conditions from planning permission 14/00736/FUL that have not already been satisfied continuing to apply.

7. APPLICATION FOR MINOR DEVELOPMENT - 10 SIDMOUTH AVENUE; THE BIRCHES (STAFFS) LTD / MR ROBERT BERRY; 15/00724/FUL

Resolved:

That the decision be deferred for a site visit on the grounds that a site visit would enable members to more properly consider the impact of the tree removal works and the works to the Birches building.

8. APPLICATION FOR MINOR DEVELOPMENT - RAVENS CREST, MAIN ROAD, BETLEY; MR & MRS ANDREW AND LEE PEDDIE; 15/00804/FUL

Resolved:

That the application be permitted subject to:

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

9. APPLICATION FOR MINOR DEVELOPMENT - RED GATES, HADDON LANE; MR IAN SNAITH/ELLIS HILLMAN PARTNERSHIP; 15/00878/FUL

Resolved:

That the application be refused for the following reasons:

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.

10. APPLICATION FOR MINOR DEVELOPMENT - LAND SOUTH -EAST OF HOLLYCROFT FARM, LORDSLEY LANE, ASHLEY; MRS DERRICOTT; 15/00814/FUL

Resolved:

That the application be permitted, 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

11. APPEAL DECISION -BUCKMASTER AVENUE ; 14/00764/FUL

Resolved: That the decision be noted.

12. HALF YEARLY DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2015/2015

Resolved:

(a) That the report 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.

13. ARTICLE 4 DIRECTION

A report was submitted requesting the Committee to consider whether an Article 4 Direction should be made to remove permitted development rights for changes of use from dwelling houses (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.

Members considered the proposal and thought that it would be a sensible idea to put an article 4 direction in place immediately whilst at the same time looking to include a Borough wide policy in the Local Plan.

Cllr Fear proposed the following recommendation which was seconded by Cllr Turner and voted on with all members in agreement:

Resolved:

(a) That an immediate Article 4 Direction be issued to remove, with respect to the area indicated on the plan attached to the report, that permitted development right that allows without the need for planning permission, changes of use from dwelling houses (Use Classes C3) to Small Houses in Multiple Occupation (Use Classes C4)

(b) That active consideration be given to including within the Joint Local Plan policy concerning such changes of use and the more widespread declaration of Article 4 Directions relating to the same change of use

14. SHOP FRONT DESIGN GUIDANCE

Resolved: that the Guidance Note be adopted.

15. TREE PRESERVATION ORDER 169

Resolved:

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.

16. TREE PRESERVATION ORDER 170

Resolved: 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.

17. URGENT BUSINESS - URGENT WORKS AT WOODSHUTTS FARMHOUSE, SECOND AVENUE, KIDSGROVE

An urgent report was submitted requesting approval for the use of the Historic Buildings Grant (HBG) fund to assist with the preparation of a schedule of work which could form the basis of an Urgent Works Notice at Woodshutts Farmhouse, Kidsgrove, and help to fund the execution of such works.

The farmhouse was a Listed Building on the Council's Buildings at Risk Register.

The urgency of this matter related to the importance of immediately taking steps to stabilise this building following a recent fire, and before the onset of winter.

Resolved:

That Members agree to the use of the Historic Buildings Grant fund to

- (1) commission (and pay for) a report for a specification of works to keep the building safe from collapse and weatherproofing following a recent fire which could then form the basis for an Urgent Works Notice if the Executive Director (Regeneration and Development) considers such Notice should be served;
- (2) to provide financial assistance of up to £2,000 to the owner to undertake such works, and
- (3) to execute the works referred to in that Notice if the owner does not do so.

COUNCILLOR MRS SOPHIA SNELL
Chair

**TADGEDALE QUARRY, ECCLESHALL ROAD, LOGGERHEADS
RENEW LAND DEVELOPMENTS LTD**

15/00015/OUT

The application is for outline planning permission for the erection of up to 128 dwellings. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and internal access details) reserved for subsequent approval.

The application site lies on the north side of Eccleshall Road which is a B classified road outside the village envelope of Loggerheads and within the open countryside and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map. The site area is approximately 5.83 hectares.

The 13 week period for the determination of this application expired on the 10th June 2015 but the applicant has currently agreed an extension to the statutory period until 16th December 2015.

RECOMMENDATION

A. Subject to the applicant entering into a Section 106 obligation by 4th January 2016, securing the following:

- i. A management agreement for the long-term maintenance of the open space on the site**
- ii. A contribution of £513,923 towards education provision ((on the basis that the development as built is for the full 128 units and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy), towards the provision of education places at St. Mary's CE Primary School, Mucklestone**
- iii. Provision of 25% of the dwellings as affordable units**
- iv. A contribution of £6,300 towards travel plan monitoring**

PERMIT subject to conditions concerning the following matters:

- 1. Standard time limits for submission of applications for approval of reserved matters and commencement of development**
- 2. Reserved matters submissions**
- 3. Status of various plans and drawings**
- 4. Contaminated land**
- 5. Construction hours**
- 6. Construction management plan**
- 7. Waste storage and collection arrangements**
- 8. Internal and external noise levels**
- 9. Arboricultural Impact Assessment**
- 10. Tree retentions and removals plan**
- 11. Boundary treatments**
- 12. Details of Root Protection Areas (RPA)**
- 13. Details of all special engineering within the RPA**
- 14. Levels details**
- 15. Travel plan**
- 16. Pedestrian crossing and speed reduction features on the A53**
- 17. Pedestrian/cycle only access to the site linking to existing footway**
- 18. Pedestrian refuge on the B5026 Eccleshall Road/Mucklestone Wood Lane junction**
- 19. Surface water drainage scheme**
- 20. Details of the disposal of surface water and foul sewage**
- 21. Approval of details of play facilities and timing of provision of open space and these facilities**
- 22. Any reserved matters application to comply with the Design and Access Statement and the Landscape and Design Character Study**

B) Should the matters referred to in (i), (ii), (iii) and (iv) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure the provision of adequately maintained public open space, appropriate provision for required education facilities, an appropriate level of affordable housing, and measures to ensure that the development achieves sustainable transport outcomes; or, if he considers it appropriate, to extend the period of time within which such obligations can be secured.

Reason for Recommendation

In the context of the Council's inability to robustly demonstrate a 5 year plus 20% supply of deliverable housing sites given that it does not have a full and objective assessment of housing need, it is not considered appropriate to resist the development on the grounds that the site is in within the rural area outside of a recognised Rural Service Centre. The key adverse impacts of the development - namely the fact that the development of the application site would not form a natural or logical extension to the village of Loggerheads, would involve development in part on open countryside and the likelihood of a somewhat high level of private car use - do not significantly and demonstrably

outweigh the key benefits of this sustainable development - the making of a significant contribution towards addressing the undersupply of housing in the Borough, the provision of affordable housing in the rural area, and the visual improvement of a gateway to Loggerheads. Accordingly permission should be granted, provided the contributions and affordable housing indicated in the recommendation are secured.

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

Additional information has been requested and provided where necessary to progress the determination of the application. This is now considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework.

Key Issues

1.1 Outline planning permission is sought for residential development of up to 128 dwellings. Access from the highway network (but not the internal access within the development itself) is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval. Notwithstanding this, an indicative layout has been submitted together with a Planning Statement and a Design and Access Statement. The layout plans are for illustrative purposes only and such details would be for consideration at the reserved matters stage if outline permission were granted.

1.2 The application site, of approximately 5.83 hectares in extent, is within an Area of Landscape Restoration, in the open countryside outside the village envelope of Loggerheads, all as indicated on the Local Development Framework Proposals Map.

1.3 Reference has been made in representations to the Loggerheads Parish Council Neighbourhood Statement. This is a document produced by the Parish Council with no input from the Borough Council and although it has through a process of consultation with the local community gained the consensus of the community, it has not been subject to the rigorous procedures of wider consultation, justification and challenge which a Supplementary Planning Document has to go through, has not been adopted by the Borough Council, and accordingly has no formal status in the planning system so it must be considered to be of very limited weight. As referred to above, a further factor that has a bearing on what weight could be given to it is the question of how much it complies with the NPPF. It appears to your officer that it far from accords with the NPPF – for example in its approach to housing development, and its lack of an evidence based approach. It is useful as a statement of local opinion but no more.

1.4 It is considered that the main issues for consideration in the determination of this application are:-

- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Would the development be contrary to policies on the development of employment land for other uses?
- Would the proposed development have any impact on the setting of any Listed Buildings?
- Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?
- Would the proposed development have any adverse impact upon highway safety and does it provide appropriate pedestrian access to village facilities?
- Would land contamination have an adverse impact upon either residential amenity or water quality?
- Would there be any issue of flood risk?
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?
- Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?
- 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?

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

2.1 The application site lies within the Rural Area of the Borough, outside of the village envelope of Loggerheads, in the open countryside.

2.2 Core Spatial Strategy (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.

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

2.4 Furthermore, Policy H1 of the Newcastle Local Plan (NLP) indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within one of the village envelopes.

2.5 As indicated above this site is neither within a village envelope nor would the proposed dwellings serve an identified local need as defined in the CSS. As such its development for residential purposes is not supported by policies of the Development Plan.

2.6 The Local Planning Authority (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 underdelivery of housing, the LPA is required to increase the buffer to 20%. The Local Planning Authority, in the opinion of your Officer, 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 that 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.

2.7 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 at 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.

2.8 The site is outside the village envelope of Loggerheads. Whilst the applicant's agent states that the site immediately abuts the village boundary of Loggerheads it is only the south-eastern corner of the site that adjoins the village envelope at the junction of Eccleshall Road with Mucklestone Wood Lane.

2.9 Loggerheads is identified within the CSS as being one of the three Rural Service Centres which are detailed as providing the most comprehensive provision of essential local services. Currently Loggerheads has a food store, a primary school, a public house, a pharmacy, a library, a cash point, a post office, a restaurant, a takeaway, a hairdressers, a veterinary surgery and a bus service linking the towns of Newcastle, Hanley, Market Drayton and Shrewsbury.

2.10 The centre of the site would be approximately 1100m (1.1km) walking distance from the village centre of Loggerheads, i.e. the food store, post office and library, and approximately 1500m (1.5km) from the primary school. The nearest bus stops are located on the A53 in the vicinity of the double mini roundabouts and are approximately 1000m from the site.

2.11 In the Transport Assessment that accompanies the application, it is concluded that the development is sustainable with good accessibility to the site provided to those travelling by foot and by bicycle and is served by a good bus service. It states that Manual for Streets advises that walkable neighbourhoods are typically characterised as having facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot. It goes on to say however that this is not an upper limit and that walking offers the greatest potential to replace short car trips, particularly those under 2km (2000 m).

2.12 A further Technical Note has been submitted by the Transport Consultant. It highlights guidance within the Chartered Institution of Highways and Transportation (CIHT) document, "Guidelines for Journeys on Foot" which states that the preferred maximum walking distance for commuters and education is 2km. It goes on to refer to guidance issued by the Department for Education which states that the "statutory walking distance" is 3.22km (two miles) for children aged under eight and 4.83Km (three miles) for children aged eight and over. The applicant's Transport Consultant notes that the guidance regarding the 2km distance is referred to within recent Planning Appeals and highlights four decisions for consideration.

2.13 It is the case in the decisions referred to that where consideration is given to walking, the key distance referred to by Inspectors is 2km. In relation to an appeal decision for 270 dwellings on a site just under 2km from Clitheroe town centre, the Inspector referred to the CIHT walk distance guidance. He went on to state that in assessing accessibility, a degree of realism must be applied and he argued that most journeys of less than a mile (1.6 km) are undertaken on foot.

2.14 In an appeal decision relating to residential development of up to 75 dwellings at Shepshed, Leicestershire, the Inspector stated that the 2km distance may indeed prove a deterrent to those with small children but to adults, as an alternative to the car, it still offers a reasonable distance for walking.

2.15 Your Officer has been unable to find any appeal decisions that take a contrary view in relation to a reasonable walking distance.

2.16 There will be at least a realistic opportunity for occupiers of the development to access the quite extensive range of facilities and services to be found in Loggerheads, as recognised by its designation as a Rural Service Centre, by means other than the private motor car. On a wider scale, this is not a remote, rural location and distances to higher order settlements and facilities are relatively short and taking all of the above into account it is considered that the site is in relatively sustainable location. That there is likely to be a somewhat high level of the use of the private car, is however a factor which weighs against the proposal and it needs to be taken into account in the planning balance.

2.17 Taken as a whole these points overall weigh in favour of a conclusion that in terms of access to some facilities and a choice of mode of transport, the site can be described as being in a sustainable location. Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.

2.18 The applicant states that in terms of the economic dimension, the proposal would have positive economic effects on the local economy, not only through direct job creation but also through the supply of goods and services to the construction activity on site. It is also stated that the creation of up to 128 dwellings would deliver additional spending power within the local retail sector and would support existing local full time employment positions within the local retail sector. Furthermore the delivery of dwellings would result in New Homes Bonus contributions to the area along with further contributions through a section 106 agreement.

2.19 The applicant states that there would also be social benefits in supporting local services and in addition, the proposal includes the provision of 10% affordable housing which would assist in creating a mixed and sustainable community. The proposal would also make a valuable contribution to the five year housing land supply position.

2.20 In terms of the environmental dimension of sustainable development, the applicant states that great care has been taken to ensure that the proposed development can take place in a manner that would respect environmental considerations and without causing material harm to the environment. The site currently has an untidy appearance and the proposal represents an opportunity to improve its appearance. Housing would be more in keeping with this edge of village location. The removal of the heavy goods vehicle movements from the local highway network associated with the existing use of the site would benefit the environment. It is argued that the proposal comprises the redevelopment of a brownfield site (at least in part) thus alleviating pressure to release other greenfield sites. The Landscape and Design Character Study concludes that the development would deliver an attractive and sustainable neighbourhood and the Transport Assessment concludes that the site is located within walking distance of the majority of the local services within Loggerheads.

2.21 Whilst your officer is in no position to confirm whether the implications of the development for the economy are as suggested, the development would undoubtedly create associated construction jobs, and it is not unreasonable to consider that it will at least support the retention of existing services within Loggerheads, by the provision of more custom. These factors are difficult to quantify in relation to relatively small scale developments such as this. Set against them is the more quantifiable loss of an employment site as a consequence of this development. Indications are that the existing offices and workshop on the site provide employment for in the order of 15 people. In the sense that the development involves the loss of one of the larger employers in Loggerheads and thus a reduction on local employment choice there is an argument that this is not “sustainable”. This aspect is however considered in more detail below in the next Key Issue.

2.22 An undoubted benefit is the construction of housing in the rural area in a district that does not have a five year supply of housing. Whilst the site is not the easiest to deliver, independent assessment suggests a build out period of in the order of 43 months (3.6 years) and that the site would, if approved, fully contribute to the next 5 years housing land supply.

2.23 In terms of the New Homes Bonus (NHB), expenditure of the Bonus in the Borough is not related to the residential developments that generate the Bonus and cannot therefore be anticipated to help to make the development acceptable in planning terms. Taking into account the National Planning Practice Guidance on this point it is not considered that the receipt of such money is a material consideration that can be given any weight in the determination of this application. A number of appeal decisions that have made reference to the NHB have not given any significant weight to such a local finance consideration in the absence of a direct connection between the payment of the NHB and the proposed development..

2.24 The development would fulfil a social role by delivering a mix of market housing and affordable housing in the rural area. The public open space would be able to be used by both the residents and the wider population as well. They already have reasonable closer provision (which will be added to yet further if the development approved on Mucklestone Road (15/00202/OUT) proceeds), but fundamentally the open space should be seen as providing the appropriate required mitigation for the development rather than as a benefit per se. The same is true of the additional school places that are proposed – they are the appropriate required mitigation, not a benefit. The issue of the environmental impact of the scheme will be considered fully below.

2.25 In commenting on this proposal at pre-application stage, the Urban Vision Design Review Panel considered that the site is not a ‘natural’ extension of the existing village, and that there is an area of farmland between the site and the village which may come under pressure for development if the site is developed for housing. As to the latter point there is no substantive reason to consider that granting permission for this development would materially alter the consideration of any such proposals and in any case that is not the proposal that is here before the authority for determination. Whilst the site is contained on most sides by roads, trees and hedgerow features given that only the south-eastern corner of the site adjoins the existing development boundary and that the majority of the site is separated from the village by fields, the development of the application site would not form a ‘natural

or logical' extension to the village of Loggerheads which has a nucleated form. This is a material consideration which weighs against the proposal but whether this and any other adverse impact would significantly and demonstrably outweigh the benefits will be considered at the end of this report

3. Would the development be contrary to policies on the development of employment land for other uses having regard to both the policies of the development plan and the NPPF?

3.1 As already indicated part of the site is in active employment use. NLP Policy E11 states that development that would lead to a loss of good quality employment land and general industrial land and buildings will be resisted where this would limit the range and quality of sites and premises available. The criteria for what constitutes 'good quality' business and general industrial land and buildings include the following:

- 1) Accessibility to and from the primary road network
- 2) Size
- 3) Topography and configuration
- 4) Ground conditions
- 5) Its location and relationship to adjoining uses

3.2 Strategic Aim 5 of the CSS refers to the need to foster and diversify the employment base of all parts of the plan area, both urban and rural, including the development of new types of work and working lifestyles, and supporting the office development sector, new technologies and business, capitalising on the inherent advantages of North Staffordshire. In identifying certain Rural Service Centres the CSS did so on the basis that they were those rural settlements that provided retail and other services to meet local needs. Whether or not they provided employment opportunities was not a specific factor in that designation.

3.3 CSS Policy ASP6 (2), setting out the Rural Area Policy, states that the Council will take a positive approach towards rural enterprise relating to the availability of the local workforce. In particular opportunities will be sought to encourage:

- The sensitive and sustainable diversification of traditional rural economies
- A positive contribution towards enhancing local landscape and biodiversity
- Appropriate re-use, conversion or replacement of existing buildings in sustainable locations
- Provision of essential rural services

There is no express reference to the retention of existing employment sites in the Rural Areas

3.4 The core planning principles of the NPPF include proactively driving and supporting sustainable economic development. It is stated that every effort should be made objectively to identify and then meet the housing, *business*, and other development needs of an area.

3.5 However paragraph 22 of the NPPF states that planning permission should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Applications for alternative uses of land and buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

3.6 The applicant has confirmed that there are fourteen people currently employed at the site and that should the proposed development be implemented, then those employees would be relocated to another site in Shropshire. Whilst there would be no redundancies therefore, the proposed development would result in the loss of a local employment site. Whilst there are relatively few employment opportunities in Loggerheads and the site might be considered, in comparison with other rural employment sites, to meet the criteria of a "good quality" site, as set out in NLP, demonstrating a need for rural employment sites is not at present possible and there are significant employment opportunities in the nearby Market Drayton. Loggerheads is not a remote, rural location and distances to other employment locations are not excessive. .

3.7 In conclusion it is not considered that the loss of the site as in part employment land would be contrary to policies of either the development plan or the NPPF.

4. Would the proposed development have any impact on the setting of any Listed Buildings?

4.1 There is a Grade II Listed milepost on Eccleshall Road to the south-west corner of the site. NLP Policy B5 states that the Council will resist development proposals that would adversely affect the setting of a Listed Building and this would include such a feature. Given that the proposed access would be further to the east on Eccleshall Road, and taking into account the associated widening of the carriageway that is proposed it is not considered that the setting of the milepost would be adversely affected.

4.2 Objections have been received from the occupiers of White House Farm, a Grade II Listed building to the east of the site on Mucklestone Wood Lane, on the grounds that the proposal would affect the setting of that Listed Building. Given the considerable distance of the development site from White House Farm, the tree lined nature of Rock Lane, and the lack of a planned or designed setting to that building extending to this site, it is not considered that the proposed development would adversely affect the setting of that Listed Building.

5. Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?

5.1 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.

5.2 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 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

5.3 It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality.

5.4 Although an indicative layout has been submitted to show how the site may be developed, layout, scale, appearance and internal access arrangements are all matters reserved for subsequent approval, and therefore, it is not considered necessary to comment in detail on or consider the layout submitted. Up to 128 dwellings are proposed comprising a variety of house types, which would be limited to 2 storeys in height. The gross density of the proposed scheme (taking into account the whole site area including its open space) would be 22 dwellings per hectare. The net density (excluding the areas of open space) would still be relatively low at 27 dwellings per hectare.

5.5 Paragraph 58 of the NPPF states that decisions should aim to ensure that developments optimise the potential of the site to accommodate development and respond to local character and reflect the identity of local surroundings.

5.6 Section 10.5 of the Urban Design SPD states that new development in the rural area should respond to the typical forms of buildings in the village or locality. It states that in doing so, designers should respond to the pattern of building forms that helps create the character of a settlement, for instance whether there is a consistency or variety.

5.7 It is considered that the number of dwellings indicated could be accommodated within the site satisfactorily and subject to details, would not have any significant adverse impact upon the character and appearance of the village. There is a mix of dwelling size and style in the area and it is considered that the proposed scheme, as shown on the indicative layout drawing, both respects local character and optimises the potential of the site to accommodate development. The proposed development would achieve a mix of housing types and would help to deliver a wide choice of homes and create a sustainable, inclusive and mixed community as required by the NPPF.

5.8 The main principles of the proposed design and layout of the site are outlined in the Design and Access Statement and Landscape and Design Character Study. The content of those documents is considered appropriate as a basis for the reserved matters submission and therefore should planning permission be granted, a condition is recommended requiring any subsequent reserved matters applications to be in accordance with the principles of the Design and Access Statement and the Landscape and Design Character Study.

5.9 CSS Policy CSP4 indicates that the location, scale, and nature of all development should avoid and mitigate adverse impacts (on) the area's distinctive natural assets and landscape character. This policy is considered to be consistent with the NPPF which states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

5.10 Supplementary Planning Guidance to the former Staffordshire and Stoke-on-Trent Structure Plan, which was adopted in 2001, identifies the site as being within a 'Sandstone Hills and Heaths' landscape character type. It states that this is a landscape varying from intensive arable and pastoral farming. The SPG was used in the NLP to set policies for landscape consideration. This site is within a Landscape Maintenance Area and NLP Policy N19 states that within such an area it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape.

5.11 A Landscape and Visual Appraisal (LVA) has been submitted to accompany the application. The LVA states that the site is currently well screened by the undulating landform and existing mature vegetation and as development will sit lower than the existing landform, this helps to lower the average ridge lines of the proposed buildings and therefore limits the effect the development of the site will have on the wider countryside and landscape character. Therefore the highest effects would be localised to the immediate vicinity of the quarry. Effects on the wider landscape are considered to be slight. It states that as the site has previously been used for quarrying, it can be considered as a damaged landscape. There are no landscape elements or features of value within the site apart from the trees and hedgerows that form the boundaries. It concludes that the proposed development would not erode the quality of the existing landscape and it could actually provide an overall benefit by causing an improvement to the site with appropriate landscape mitigation.

5.12 As stated in the LVA, due to the topography and the existing mature woodland and hedgerows that surround the site, views would be limited. The development would sit generally lower than the existing prevailing and surrounding landform, although it should be noted that part of the proposal is to increase the ground level at certain points and this needs to be taken into account.

5.13 From Rock Lane, which with the exception of two dwellings, forms the eastern boundary, views of the site would be filtered by mature trees and hedgerows and given that the development would be set down below the Lane, the proposed development would not be prominent in such views.

5.14 From Eccleshall Road the most visible part of the site is currently hardstanding occupied by some office and workshop buildings, parking and disused lorries. Previous planning consents for buildings on this part of the site (including one which has not been completed) included currently unsatisfied conditions requiring some additional landscaping particularly in the western part of the site, and the site is not being used in the same manner that it has historically (one of the accesses having been blocked by lorries) As a consequence the site is particularly unattractive at present but even if such planting had been undertaken, the approved development completed and the site used more as it has been in the past, it still would have a detrimental impact on the landscape

5.15 Associated with the access proposals is some loss of trees on the Eccleshall Road frontage including ones categorised as of high and moderate quality and value (Categories A and B).

Nevertheless travelling from the west it is a gateway site on the approach into Loggerheads and it is considered that the proposed development would overall have a positive impact on views. Taken as a whole, and allowing for the fact that there would be long distance views of the site from the west (from the Mucklestone direction), the topography and existing landscaping would limit the effect that the development of the site would have on the wider countryside and landscape character. Impact on the immediate surroundings could, over time be mitigated with the use of landscaping. . In conclusion subject to a good quality layout and design and subject to conditions regarding proposed landscaping, it is not considered that the development would have such an adverse impact on the character or quality of either the village or the wider landscape to justify a refusal.

6. Would the proposed development have any adverse impact upon highway safety and does it provide appropriate pedestrian access to village facilities?

6.1 Vehicular access to the development would be provided from the B5026 Eccleshall Road through the provision of a new access and the closure of the two existing accesses, and an associated widening of the carriageway to provide a priority controlled ghost island right turn lane junction. The proposal includes a pedestrian/cycle only access to the site from the south-eastern corner in the vicinity of the Eccleshall Road/Rock Lane/Mucklestone Wood Lane junction which will link onto the existing footway on Eccleshall Road. A pedestrian refuge is proposed at this junction. In addition an improvement scheme is proposed involving the introduction of a controlled pedestrian crossing to the west of the A53/Eccleshall Road/Mucklestone Road double mini-roundabout junction.

6.2 Concerns have been raised by residents on the grounds that the road network serving Loggerheads is already substandard and any significant increase in traffic would exacerbate this. The mini-roundabouts are, they say, notoriously dangerous and further traffic would further risk the safety of residents.

6.3 The application is accompanied by a Transport Assessment (TA) which states that the access and the surrounding network will operate within their practical capacity during peak hours with the additional development traffic. The TA states that visibility at the proposed accesses is acceptable and that the personal injury accident data does not represent a material concern. It considers that the development is sustainable with good accessibility for those travelling by foot and by bicycle and is served by a good bus service. The TA concludes that:

“..there is no highway or transport related reason to withhold planning permission for the scheme and the proposed development is therefore commended for approval”.

6.4 The Highway Authority (HA) has no objections to the application subject to the imposition of conditions, indeed they comment that the access junction and surrounding network will operate within their practical capacity during peak hours in future years with the development traffic added, and that the site is well located in terms of walking distances to most services within the village. Because of the apparent and likely impact of the widening of the carriageway of Eccleshall Road on existing trees on that frontage, and its visual impact,, your officers are seeking confirmation from the HA that the provision of a right hand turning lane is essential in highway safety terms.

6.5 The NPPF indicates (in paragraph 32) that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Noting that the Highway Authority does not raise objections to the application and having critically considered the Transport Assessment, your Officer's view is that subject to the imposition of conditions the impact of the proposed development on transport grounds would not be severe and therefore an objection on such grounds could not be sustained.

6.6 With regard to the proposed introduction of a controlled pedestrian crossing to the west of the A53/Eccleshall Road/Mucklestone Road double mini-roundabout junction, your Officer has queried with the applicant whether the suggested crossing would actually enhance pedestrian safety in crossing the A53 because the new crossing would require the majority of pedestrians, to make two additional crossings - one across Mucklestone Road to reach the proposed crossing, and a second across Eccleshall Road to reach the shops and the school. In response, a further Technical Note has been submitted by the applicant's Transport Consultant which states that the location was selected because it would still be possible for the mini roundabouts to operate in a safe and satisfactory

manner with the pedestrian crossing signals in place. It goes on to state that there is insufficient footway width available to locate such signals to the east of the double mini roundabouts on both Muckleston Road and Newcastle Road and locating the signals in between the mini-roundabouts would require a wholesale redesign of the junction and the cost would be unreasonable. Whilst the Note accepts that pedestrians would need to cross back over Eccleshall Road to the south of the mini-roundabouts to access the local facilities it states that flow along Eccleshall Road, which is a B classification, is significantly lower than that on the A53 and the road is narrower. As such it is stated that the proposed location for the signalised crossing would offer significant benefits.

6.7 The HA stated in its initial consultation response that such a pedestrian crossing would be of benefit to both prospective residents and current residents of Loggerheads. Your Officer has sought the further views of the HA on the matter following receipt of the applicant's Technical Note. The HA has confirmed that whilst it would be advantageous to have a crossing point on the eastern side of the double mini-roundabouts, without doing any major re-design work it appears that a crossing on the western side would be the preferred location as a crossing on the eastern side would need to be located too far from the junction to be fully used.

6.8 The HA have confirmed previously that the provision of a crossing is desirable but not necessary to make the scheme acceptable. Therefore, although it may be preferable for the crossing to be located to the east of the junction, given the difficulties in designing an acceptable scheme as referred to by both the applicant and the HA, it is accepted that a crossing to the west would provide some benefit including to other residents. It is a proposal associated with the development and therefore falls to be considered in the balancing exercise.

6.9 In terms of the accessibility of the site to the services within the village, the introduction of a pedestrian/cycle access linking the site to the existing footway on Eccleshall Road, the pedestrian refuge at the junction with Muckleston Wood Lane and the introduction of a controlled pedestrian crossing on the A53 will improve linkages from the site to the village, will help to reduce the requirement for residents to use their car and to ensure a sustainable development.

7. Would land contamination have an adverse impact upon either residential amenity or water quality?

7.1 Paragraph 109 of the NPPF states:

"The planning system should contribute to and enhance the natural and local environment by... preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability."

7.2 Given the historic use of Tadgedale Quarry as a landfill site and a haulage depot, land contamination is a potential issue. Representations have been received highlighting public health concerns and Loggerheads Parish Council has stated that the Geo-Environmental Report is inadequate and that a full soil investigation should be carried out.

7.3 In relation to residential amenity, the Council's Environmental Health Division (EHD) raises no objection to the application subject to the imposition of conditions. Whilst further intrusive investigations will need to be undertaken as acknowledged in the Phase I Assessment, the EHD is satisfied that those investigations can be required by condition and that an appropriate remediation scheme can be agreed to ensure that the development can be safely achieved.

7.4 Regarding the potential impact on watercourses, the site overlies a Principal Aquifer which has high vulnerability to surface contamination at this location. The EA is satisfied that subject to a condition requiring further site investigation, the development would not pose an unacceptable risk to the water environment.

7.5 Subject to conditions, it is not considered that an objection can be sustained on the grounds of land contamination concerns.

8. Would there be any issue of flood risk?

8.1 A Flood Risk Assessment and a Drainage Strategy have been submitted to accompany the application. Concerns have been expressed by objectors referring to a history of flooding in the area and stating that the existing surface water system has no capacity to accommodate the proposed development. Loggerheads Parish Council states that there are a number of factual errors in the assumptions made in the Drainage Strategy.

8.2 The site is located within Flood Zone 1 as designated by the Environment Agency (EA) which is an area with a low probability of flooding. The EA raise no objections to the proposal. Staffordshire County Council as Lead Local Flood Authority (LLFA) initially objected to the application on the grounds that the submitted documents do not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. A revised Drainage Strategy has now been received and the LLFA has no objections subject to a condition requiring submission of a detailed surface water drainage scheme for the site.

8.3 Subject to the imposition of conditions, it is not considered that an objection could be sustained on the grounds of flood risk.

9. What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

9.1 Certain contributions are required to make the development acceptable. These are, in no particular order, the provision of 25% affordable housing, a contribution of £513,923 towards education provision and a travel plan monitoring fee of £6,300. These contributions are ones which make the development policy compliant and 'sustainable'. They are considered to meet the requirements of Section 122 of the CIL Regulations being 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.

9.2 However, it is also necessary to consider whether the financial contributions comply with Regulation 123 of the CIL Regulations, which came into force on 5th April 2015. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010.

9.3 Staffordshire County Council has requested an education contribution towards the provision of spaces at St Mary's CE Primary School in Mucklestone and Madeley High School. There has been just one planning obligation entered into since April 2010 providing for a contribution towards St Mary's Primary School but more than 5 obligations have already been entered into providing for a contribution to Madeley High School. The first five obligations that have been entered into since April 2010 in which an education contribution has been secured for Madeley High School, will be utilised towards a project to provide 2 additional classrooms, which will be attached to the dining room, which will also need to be expanded. Any subsequent planning obligations, including the one now being sought, will be for a different project or projects than mentioned above. On this basis, it is considered that the contributions comply with CIL Regulation 123.

9.4 In its consultation response, Loggerheads Parish Council states that if this application is to be considered for approval then it must contribute to the identified infrastructure and community facilities requirements set out in its Neighbourhood Statement. It then goes on to list a number of contributions and recommends a monetary sum for each. Your Officers have met with Loggerheads Parish Council who provided some background to why the particular requirements have been set out and how the monetary sums have been derived.

9.5 The list includes a number of highway related contributions but the Highway Authority does not consider that they are necessary to make the development acceptable. A contribution towards an upgrade of the electricity supply is requested but it is the case that a developer has a statutory duty to finance the electricity supply to a housing development in any event. A contribution to the upgrade of the foul and surface water system is requested but again there is a statutory requirement for the statutory undertaker to address any impact. Requests have been made by the Parish Council towards the provision of a community centre, youth facilities and sports facilities. Your Officer has sought the

views of the Council's Leisure Strategy Section on this request but they have not provided any evidence of a need for such facilities to be improved. Finally, a contribution is requested towards a doctor's surgery/health centre. Your Officer has sought the views of Staffordshire Public Health on this request. Whilst their comments confirm that there is an ageing population in Loggerheads and Whitmore Ward, they have not provided any evidence of a need for improvement of the existing health facilities in the area. On the basis of the above, it is not considered that the contributions requested by Loggerheads Parish Council would comply with Section 122 of the CIL Regulations.

10. Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

10.1 A Viability Appraisal has been submitted with the application which concludes that a policy compliant development would not be viable. That appraisal states that the development could support the required developer contributions but just 10% on-site affordable housing (rather than the 25% required by policy).

10.2 The NPPF states in relation to viability that the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable. It goes on to state that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, where appropriate, be sufficiently flexible to prevent planning development being stalled.

10.3 It is acknowledged that in some circumstances an applicant may believe that what is being asked for by the Council will render a development unviable.

10.4 The Council's position is that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply. A list of the type of information which an applicant might consider useful to demonstrate why the Council's requirements are too onerous is provided in the Developer Contributions SPD and it is indicated that negotiations over the level of and nature of contributions will be assessed on a 'site by site' basis, having regard to a financial appraisal (which may be informed by independent advice) and that such negotiations will need to take account of the economics of the development and other national, regional, and local planning objectives that may affect the economic viability of the proposal.

10.5 The applicant in this case has submitted financial information to substantiate their claim that the Council's requirements as an LPA would render a policy compliant scheme unviable. The information submitted has been sent by your officers to the District Valuer (an independent third party who has the skills required to assess financial information in connection with development proposals) for further advice. There have been discussions between the District Valuer and the applicants' agents with a range of supporting material being provided.

10.6 The District Valuer's report has now been received and it concludes that the proposed residential scheme is viable and can therefore provide policy compliant affordable housing and Section 106 contributions. The principal reason for the difference in the conclusions of the applicant's consultant and of the District Valuer is the site value assumed by the two parties with the District Valuer considering that the site value submitted by the applicant is excessive. Your Officer has considered the report of the District Valuer and is satisfied with the advice given. On this basis therefore, it is considered that the full contributions towards education provision and travel plan monitoring as well as 25% affordable housing provision should be required.

11. 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?

To summarise, the development would not form a natural or logical extension to the village of Loggerheads, would involve development in part on open countryside and would result in the likelihood of a somewhat high level of private car use. However as explained above, this sustainable development would make a significant contribution towards addressing the undersupply of housing in the Borough, would provide affordable housing in the rural area, it provides a safer pedestrian

crossing of the A53, and would result in the visual improvement of a gateway to Loggerheads. It is considered therefore that the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. Accordingly the proposal accords with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF. On this basis planning permission should be granted provided the required contributions are obtained to address infrastructure requirements and appropriate conditions are used, as recommended.

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 SP2	Spatial Principles of Economic Development
Policy SP3	Spatial Principles of Movement and Access
Policy ASP6	Rural Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP2	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy B5:	Control of Development Affecting the Setting of a Listed Building
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N17	Landscape Character – General Considerations
Policy N19	Landscape Maintenance Areas
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

Space Around Dwellings SPG (SAD) (July 2004)

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

Planning for Landscape Change – SPG to the former Staffordshire and Stoke-on-Trent Structure Plan

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

Relevant Planning History

77/04237/N	Erection of a workshop and a lorry park in connection with haulage business - Approved
97/00122/CPO	Staged infilling of quarry and use as agricultural land on completion – Approved
01/00308/CPO	Variation of conditions 6, 23, 24, 25 and 28 of 97/122/CPO to extend time limits on restoration, submission of noise monitoring and aftercare and landscaping schemes and the erection of marker posts at Tagedale Quarry - Approved
01/00350/CPO	Storage of soil prior to use for restoration purposes - Approved
04/00389/CPO	Application not to comply with condition 1 of permission 97/122/CPO to extend the date of commencement by 2 years to 16 June 2006 – Approved
05/00356/ELD	Certificate of Lawfulness for use of site as a lorry park/haulage yard for the parking, repair and maintenance of heavy goods vehicles, fuel storage and associated offices – Granted
05/01166/FUL	New office building, workshop extension, alteration of two accesses and closure of further access – Withdrawn
06/00214/FUL	New office building, workshop extension, alteration of two existing accesses and closure of existing access – Refused
07/00114/FUL	New offices and replacement workshop – Refused and allowed on appeal
08/00659/FUL	New offices and workshop (revised scheme to 07/00114/FUL) – Approved
10/00537/FUL	Retention of two static mobile homes for residential use for security staff – Refused and a subsequent appeal against an Enforcement Notice was dismissed and the enforcement notice upheld, however planning permission for one mobile home was granted
11/00543/FUL	Retention of portal framed building/amendments to previously approved application ref. 08/00659/FUL and associated landscaping – Approved
12/00004/FUL	Retention of new basement area for new offices previously approved under planning application 08/00659/FUL – Approved
12/00498/FUL	Retention of mobile home for storage associated with security purposes - Approved
14/00080/FUL	Erection and retention of a canvas covered temporary building for a period of 2 years – Refused
14/00369/FUL	Erection of a building for storage and workshop associated with the current use - Approved

Views of Consultees

The **Environmental Health Division** has no objections subject to conditions regarding construction hours, construction method statement, protection of the highway from mud and debris, details of dust mitigation during construction, noise levels, waste storage and collection arrangements and contaminated land.

The **Environment Agency** has no objections subject to conditions regarding contamination, surface water drainage and piling or other foundation designs.

Severn Trent Water has no objection to the proposal subject to the submission, approval and implementation of drainage plans for the disposal of surface water and foul sewage.

The **Staffordshire County Council Flood Risk Team** has no objections subject to a condition requiring the submission, approval and implementation of a detailed surface water drainage scheme for the site.

Staffordshire County Council as the **Mineral and Waste Planning Authority** confirms that there is no extant restoration or aftercare conditions relating to the site and therefore has no objections to the proposal.

The **Landscape Development Section** has no objections subject to conditions requiring a tree retention and removal plan, an Arboricultural Impact Assessment, details of all special engineering

within the RPAs, details of boundary treatment, full landscaping proposals including detail of hedgerow proposals and SUDs treatment, full levels proposals and proposals for open space and play on-site, and its long term maintenance (secured by a S106).

The **Education Authority** states that the development falls within the catchments of St. Mary's CE (VA) Primary School (Mucklestone) and Madeley High School. Assuming that 25% affordable housing is obtained and excluding the Registered Social Landlord (RSL) dwellings from the secondary calculation only, a development of 128 houses could add 27 Primary School aged pupils and 16 Secondary School aged pupils. St. Mary's Primary School would be full in all year groups and Madeley High School is projected to have insufficient places available in one year group only. The education contribution for a development of this size would be 27 primary school places (27 x £11,031 = £297,837) and 13 secondary school places (13 x £16,622 = £216,086). This gives a total request of £513,923. If the amount of affordable housing reduces the required education contribution will increase

The **Highway Authority** state that modelling of the access junction and surrounding network shown in the Transport Assessment (TA) shows that they will operate within their practical capacity during peak hours in future years with the development traffic added. The existing access from the B5026 Eccleshall Road will be upgraded to provide a priority controlled ghost island right turn land junction. The site is well located in terms of walking distances to most village services and the developer is proposing to improve this facility by providing a controlled pedestrian crossing on the A53 west of the Eccleshall Rd/Mucklestone Rd double mini-roundabout junction. The proposal will provide a safe crossing point over the A53 which will be of benefit to both current and prospective residents. This and associated measures will reduce the traffic speeds on this section of the A53. It is also proposed to introduce a pedestrian refuge on the B5026 Eccleshall Road/Mucklestone Wood Lane junction to assist pedestrians in crossing Mucklestone Wood Lane, although turning manoeuvres for large vehicles need to be checked to stop encroachment. No objections are raised subject to conditions regarding full details of the site access, full details of the layout of the site, submission of a travel plan and submission of a construction method statement. It is requested that the developer enters into a Section 106 Agreement to secure a £6,300 travel plan monitoring fee, a controlled pedestrian crossing and speed reduction features on the A53 west of the A53/Eccleshall Rd/Mucklestone Rd double mini roundabout junction, the provision of a pedestrian/cycle only access to the site linking to the existing footway and the provision of a pedestrian refuge on the B5026 Eccleshall Road/Mucklestone Wood Lane junction.

The **Housing Strategy Section** states that the applicant will need to provide 25% of the dwellings for affordable housing with 60% being social rented and 40% being shared ownership. The affordable housing should not be clustered together on the development and should be sufficiently spread across the development.

The **Urban Design and Conservation Officer** is not concerned, given where the proposed access to the site is proposed, that the listed milepost will be harmed or compromised by the proposal.

Loggerheads Parish Council objects on the following grounds:

- The site notices state that the proposal "does not accord with the provisions of the Development Plan in force in the area".
- The Rural Area is at least 60% ahead of requirement thus negating the requirement for any further development in Loggerheads.
- The land has not been a quarry for 40 years; rather it has been a tip for various materials. The Geo-Environmental Report draws attention to potentially serious health risks but the report is wholly inadequate and the consideration of the application should be suspended to allow for the provision of a full soil investigation.
- The site is 800m from the village centre not 700m as suggested. The time to walk from the site entrance to Loggerheads is 15 minutes, not 5 minutes as claimed. Walking from the northern end of the proposed site will take considerably longer.
- The Visual Analysis fails to take account of the very open views from Rock Lane and Mucklestone Road to the west of the site.
- The bus service is limited and one of the reasons for refusal of a recent planning application at Baldwin's Gate was based on the very poor bus service. Loggerheads is served by the

same infrequent, unreliable service. It cannot be used by anyone seeking employment to the south.

- The site is considered incapable of being delivered as a housing development due to the very high costs of chemical remediation and specialist foundations to deal with the substantial amounts of tipped materials.
- This is not previously developed land and much of the site has not been developed in the past.
- A number of financial contributions as set out in LPC's Neighbourhood Statement have been omitted.
- Most of the traffic information in the Transport Assessment appears to be out of date having been recorded in May 2013.
- Nearly half of drivers exceed the 30mph speed limit. There is a very active Speed Watch Group in the area and the 85th percentile is 37mph.
- A considerable length of Mucklestone Wood Lane has no footpath.
- The Design Review Panel was correct to state that this is not a natural extension of the existing village.
- There is not considered to be sufficient carriageway width for a pedestrian refuge at the junction with the B5026 and Mucklestone Wood Lane.
- Drainage concerns as there is a pronounced dip in Mucklestone Road where it crosses the Tadgedale Brook which is subject to continuous flooding whenever it rains. This has a resultant constraint on pedestrians crossing to the western side of the road which has the only footpath on this stretch of road. Vehicular traffic is also often restrained by the same regular flooding.
- The whole of the foul drainage system in Loggerheads south of the A53 needs an overhaul.
- The Tree Report is two years out of date and it is recommended that a Tree Preservation Order is made to prevent further destruction of the tree belt on the north side.
- The Parish Council has re-run the calculations in the Viability Report making a number of adjustments to determine whether the site is deliverable and a viable development. A revised calculation demonstrates that the site has a negative land value demonstrating that the development of the site for housing is a totally unrealistic proposition.
- There have been five major developments in Loggerheads in the recent past producing approximately 540 new houses. There are regularly upwards of 100 properties for sale within 2 miles of the centre of Loggerheads. The housing market in Loggerheads is being satisfied by existing stock.
- There are a number of factual errors in the assumptions made in the Waterco Consultants Drainage Strategy.

Staffordshire Public Health states that it is important to consider current and long-term demographic changes in the population to ensure that services appropriately meet the needs of local residents. For Loggerheads and Whitmore Ward a key demographic feature is the ageing population and living in a rural area can present difficulties in accessing services. The significantly higher proportion of residents aged 75+ and 85+ who are living in the ward and the significantly higher proportion of these age groups providing unpaid care indicates need for local and accessible health and social care services for the ageing population. This ageing population indicates the need for planning to consider ageing, including the design and planning of local areas – suitable housing, age-friendly environments, accessible outdoor spaces and building design.

No comments have been received from the **Waste Management Section**, and the **Crime Prevention Design Advisor**. Given that the period for comments has ended it should be assumed that they have no comments to make upon the proposals.

Representations

Approximately 38 letters of objection have been received. A summary of the objections made is as follows:

- The development would be outside of the village envelope.
- Part of the site is greenfield.
- The village is not well served by public transport and most journeys are by car. As such the proposal is wholly unsustainable.

- This would not be a logical infill nor a ribbon development and is totally disconnected with any amenities in the village.
- There is a lack of a continuous footpath into Loggerheads.
- The road network serving Loggerheads is already substandard and any significant increase in traffic would exacerbate this. The mini-roundabouts are notoriously dangerous and further traffic would further risk the safety of residents.
- The local primary schools have reached capacity and there is no secondary school.
- The Ashley Doctor's surgery has reached its capacity.
- The car parking at the local shops has reached capacity and further vehicles would cause problems with health and safety regulations and would make it more hazardous for pupils walking to school.
- There is a large stock of available housing – there is no shortage.
- Loggerheads is lacking in facilities.
- There are no employment opportunities in the village.
- There are 1800 vacant properties in the Borough and a number of brownfield sites in the town that would lend themselves to residential development.
- The bus service is infrequent and unreliable.
- The electricity supply system has been overloaded for years.
- Loggerheads lacks community facilities for all ages.
- The current telephone and broadband availability are struggling to keep up with demand.
- Impact on property values
- The Loggerheads Parish Plan does not include this site for development.
- Public health concerns given that the quarry has been used in the past as a refuse tip. A variety of hazardous waste has been tipped. A full detailed survey of ground conditions is required to reveal exactly what has been dumped there.
- It would be better for the developer to make a contribution to affordable housing via commuted sum so that affordable housing can be directed at developments in areas of demonstrable need and/or sustainable urban locations.
- Impact on privacy
- Impact on the peaceful countryside.
- Impact on wildlife on or near the site.
- Increase in flooding
- The sewerage system is already unable to cope.
- Impact on White House Farm, a listed building.

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Planning Statement
- Design and Access Statement
- Assessment of Housing Land Supply
- Noise and Vibration Assessment
- Odour Impact Assessment
- Phase I Desk Study
- Flood Risk and Drainage Strategy
- Archaeology Heritage Assessment
- Arboricultural Report
- Landscape and Visual Appraisal
- Habitat Survey and Ecological Appraisal
- Transport Assessment
- Travel Plan
- Agricultural Land Classification Report

All of these documents are available for inspection at the Guildhall and as associated documents to the application in the Planning Section of the Council's website

Background papers

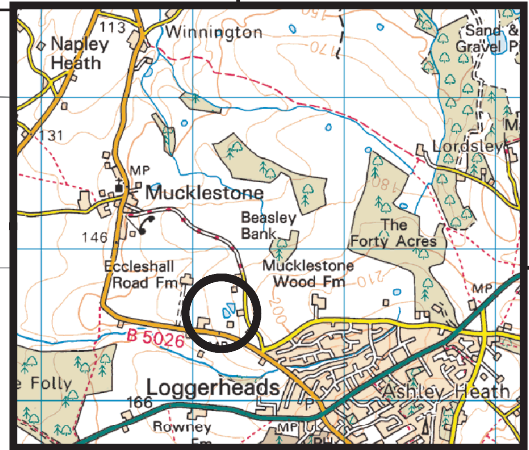
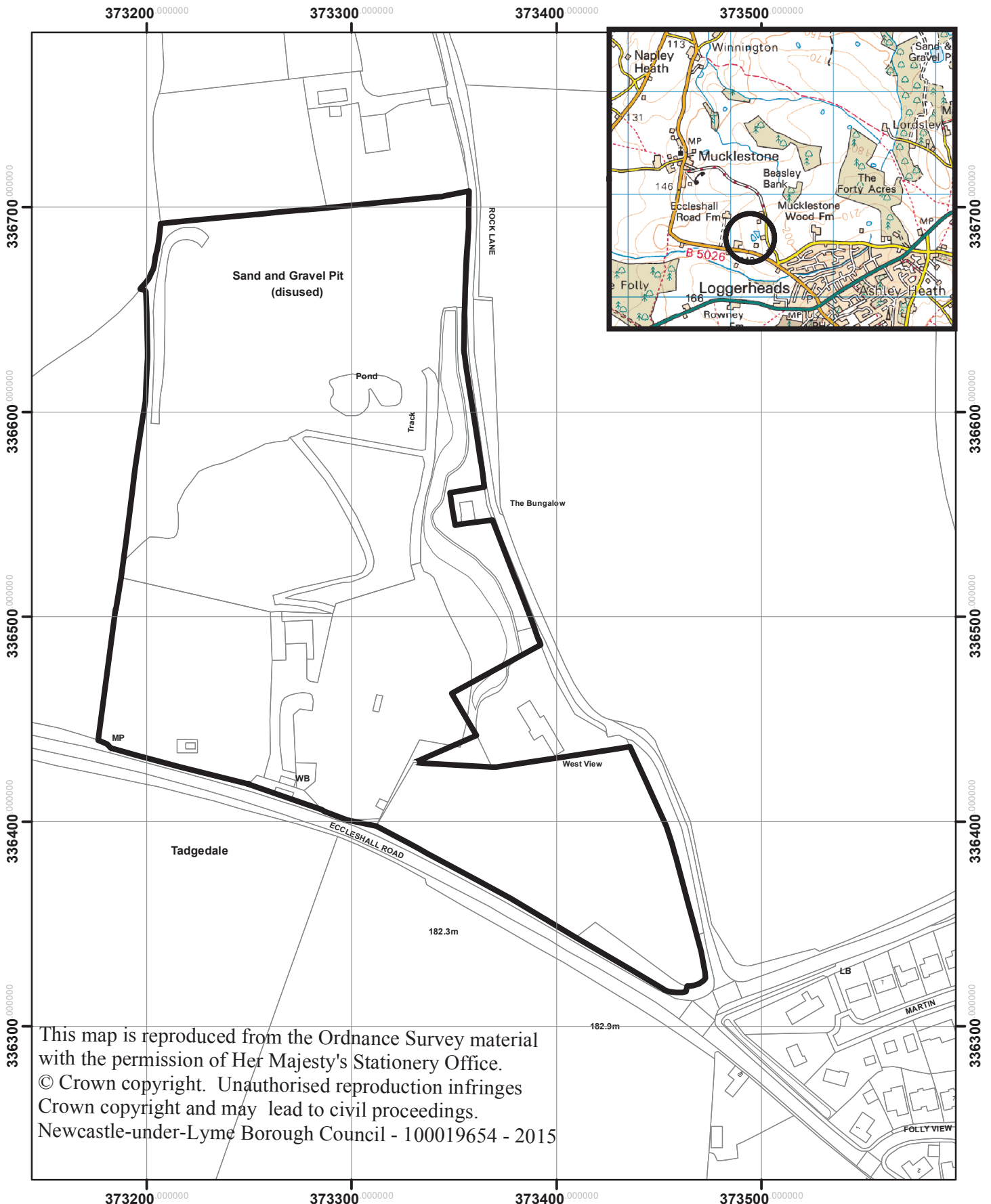
Planning files referred to
Planning Documents referred to

Date report prepared

30th November 2015

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Tadgedale Quarry, Loggerheads 15/00015/OUT



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Newcastle-under-Lyme Borough Council - 100019654 - 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 item was deferred at the meeting held 14th November on the grounds to enable the Committee to visit the site. This report has been revised principally to take into account new material received since the previous report was prepared.

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

RECOMMENDATION

1) That Secretary of State be advised that Council is minded to PERMIT the application subject to the applicant entering into a planning obligation by 8 February 2016 securing a contribution of £14,715 for public open space improvement, and planning permission be then granted 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 recommended that the access onto Gower Street is widened from 3.6m to a standard width of 4.5m. The increase in the access width would enable two vehicles to pass and would avoid vehicles having to wait on the highway whilst a vehicle exits the site. The retention of the access at its current width would not result in a highway safety impact that could be demonstrated as being severe and in light of that it is considered that the access width as proposed is acceptable, particularly when an increase in the width of the access could result in the unacceptable loss of trees.

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.

The concerns that have been expressed about the safety of the King Street/Gower street junction are those expressed by third parties and are not supported by the Highway Authority.

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

Following receipt of representations addressed to and received by the Secretary of State the Department for Communities and Local Government (DCLG) have directed that the Secretary of State, in exercise of his powers under Article 31 of the Town and Country Planning (Development Management Procedure) Order, for the Council not to grant planning permission without specific authorisation. The direction is issued to enable him to consider whether he should direct that the application be referred to him for determination.

The Article 31 Direction prevents the Planning Authority from issuing planning permission at this time. The Direction does not prevent the Council from refusing the application. In addition it does not prevent the Council from forming a view as to the merits of the proposed development and it is your Officers opinion that it would be unreasonable to delay consideration as to the merits of the application until the Secretary of State has decided whether or not to call in the application. No end date has been given for that decision.

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

42 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.
- The applicant intends to build houses then quickly change to Class C4 House in Multiple Occupation (HMO), such a view being justified by the failure to obtain planning permission for a HMO and at the Birches earlier this year, the appeal against that decision and the layout of the buildings and site.
- The design of the development is unacceptable either as a C3 dwelling house for families or as House in Multiple Occupation (HMO).
- The development results in an unacceptable impact on trees.
- The development of family housing would have an impact on the living conditions of neighbouring residents due to the poor decision, increase in traffic, noise and danger from additional traffic. The impact would be limited and acceptable, but that couldn't be said if the use of the site changed to HMO
- As a HMO the impact to highway safety is unacceptable but if the application were for the ongoing future use of family housing impact would be minimal.
- If the application were for family housing the merits and harm would be balanced and acceptable. If the use is changed to HMO the character of the Conservation Area would be irreparably damaged.
- Demolition of part of the old Birches building is unnecessary. The wishes of CAWP, that an independent historic assessment of the part of the old Birches building proposed to be demolished is commissioned, has not been addressed.
- The developer has failed again to consult in any way whatsoever with local residents.
- The Secretary of State is now considering call in off the application.

It is known that a further letter has been sent to at least some of the Members of Planning Committee which makes reference to the previous application to convert the old building to a 17 unit student HMO and seeks to highlight why the submitted scheme indicates that it is not a residential development falling within Class C3. The letter seeks to highlight the permitted development rights that enable the change of use from Class C3 to Class C4 HMO (up to six residents) without the need for planning permission.

Applicant/agent's submission

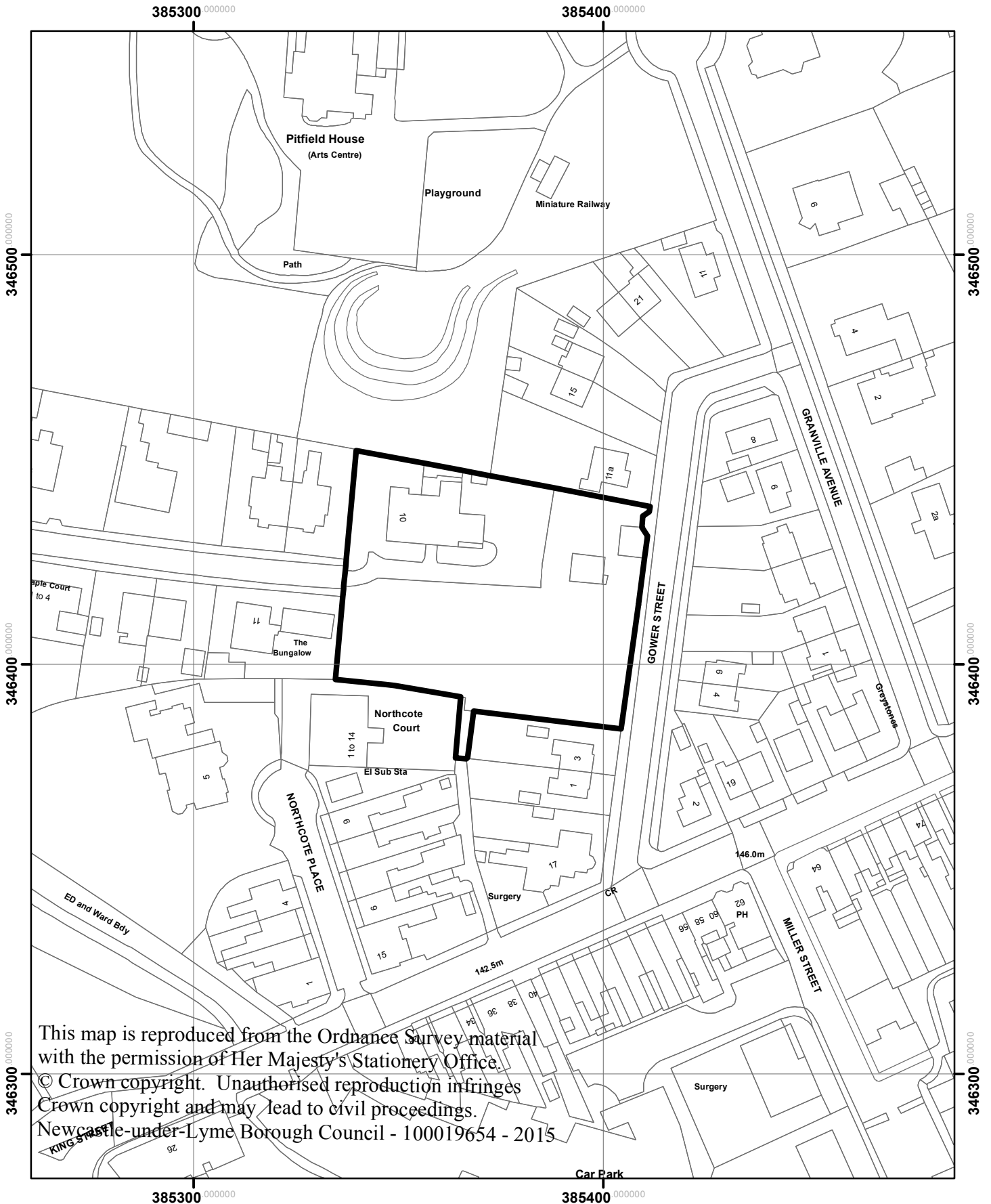
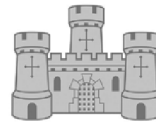
Application forms and indicative plans have been submitted along with a Design and Access Statement and Tree Report. These documents are available for inspection at the Guildhall and searching under the application reference number 15/00724/FUL on the website page that can be accessed by following this 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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The application is for full planning permission for the formation of a proposed BMX cycle track within Wereton Road Community Park, Audley.

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

The application is brought to Planning Committee as the applicant is Borough Councillor Ann Beech and the agent is a Council Landscape Officer.

The 8 week period for the determination of this application expires on 24th December 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following: -

- 1. Standard Time limit for commencement of development.**
- 2. Approved plans**
- 3. Landscaping plan details to be approved**
- 4. Final sections and heights to be approved.**
- 5. Any external lighting to be approved**
- 6. No soil (or soil forming materials) to be imported until information on their source, the results of any soil analysis and an assessment of their suitability for use has been submitted and approved by the LPA.**
- 7. Prior approval of a scheme of tree protection for the existing hedgerow adjacent to the proposed BMX track for the duration of the construction phase.**

Reason for Recommendation

The proposal would constitute appropriate development in the Green Belt being appropriate facilities for outdoor sport and recreation, which would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. The development is capable of achieving an acceptable design, subject to approval of details, in accordance with Policies S3 and N20 of the Newcastle under Lyme Local Plan, Policies CSP1, CSP 3 and CSP 4 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026, and with 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

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

Key Issues.

This is an application for full planning permission for the formation of a BMX cycle track on the Wereton Road community park, off Queen Street/ Wereton Road, Audley. The site is located within the Green Belt and within an Area of Landscape Enhancement, as indicated by the Local Development Framework Proposals Map.

The main issues to be considered with this proposal are:

- Is the proposal appropriate or inappropriate development in the Green Belt and if inappropriate, do the required very special circumstances exist to justify approval?
- Is the design of the proposal acceptable?
- Would the proposal have an acceptable impact upon residential amenity?

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.”

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

Paragraphs 89 and 90 of the NPPF set out the types of development that are not inappropriate in the Green Belt. These include appropriate facilities for outdoor sport and recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

The proposal is for a BMX cycle track within an existing community park. As such, your officers are satisfied that the proposal represents appropriate facilities for outdoor sport and recreation.

The mounds that would make up the track would be not more than 2 metres high at their highest point. The mounds forming the track would be grassed which will help reduce its overall conspicuousness within the Green Belt, and their limited height to not more than 2 metres at their highest point would keep the development low and retain openness. No fences or railings are proposed.

Overall, it is considered that the raised track would preserve the openness of the Green Belt, and as such the proposal is considered to represent appropriate development in the Green Belt. The development would comply with Policy S3 of the Local Plan and with the aims and objectives of the National Planning Policy Framework 2012.

Given that it is concluded that the proposed development is appropriate development, there is no requirement for the applicant to demonstrate a case for very special circumstances.

Is the design of the proposal acceptable?

The government attaches great importance to the design of the built environment, requiring good design as a key aspect of sustainable development.

Scale plans showing the layout of the proposed BMX track have been provided, however the plans showing the side elevations of the track are not to scale. The agent has advised that the highest track would be not more than 2 metres in height and would be built up from imported material.

It is considered that details of the appearance of the track and its height can be conditioned to be approved. Low maintenance shrub planting is proposed, which will provide dense and bushy screening. It is considered that the landscaping details can be subject to a prior to use of the development condition.

Overall, the design of the track and the proposed landscaping area would be acceptable, and the proposal would comply with Policy CSP1 of the Core Spatial Strategy, and with the aims and objectives of the National Planning Policy Framework.

Would the proposed development have an acceptable impact on residential amenity?

The site of the proposed BMX cycle track is overlooked by residential properties, the closest being approximately 30 metres from the proposed track. The proposed landscaping would be situated between the track and the closest residential properties, however the track would still be visible from these properties.

Whilst visible, it is not considered that the amenity of these properties would be harmed by the proposed BMX track, and it is a sufficient distance to not cause any loss of privacy and light to the closest residents.

The proposal is considered acceptable with regards to its impact upon neighbouring residential occupiers, and would comply with the Council's guidance on amenity standards and the aims and objectives of the National Planning Policy Framework.

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

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

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

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy N17: Landscape Character - General Considerations
Policy N20: Area of Landscape Enhancement
Policy S3: Development in the Green Belt

Other Material Considerations include:

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

Supplementary Planning Guidance/Documents

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)
Space around Dwellings Supplementary Planning Guidance (2004)

Relevant Planning History

15/00285/PLD Permitted Application for a lawful development certificate for proposed installation of skate boarding equipment

10/00351/FUL Permitted Installation of play equipment

Views of Consultees

The **Environmental Health Division** has no objections subject to a condition to require approval of details in relation to any soil or soil forming material to be imported to the site.

Audley Rural Parish Council supports the application

The **Landscape Division** has no objections subject to conditions relating to the prior approval of a detailed landscaping scheme, and the submission of a scheme of tree protection for the existing hedgerow adjacent to the proposed BMX track for the duration of the construction phase of the development.

Representations

None received.

Applicant's/Agent's submission

The results of a consultation exercise regarding the proposal with 75 signatories supporting the proposal, in addition to application forms and plans have been submitted. These documents are available for inspection at the Guildhall and under the application reference number 15/00923/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

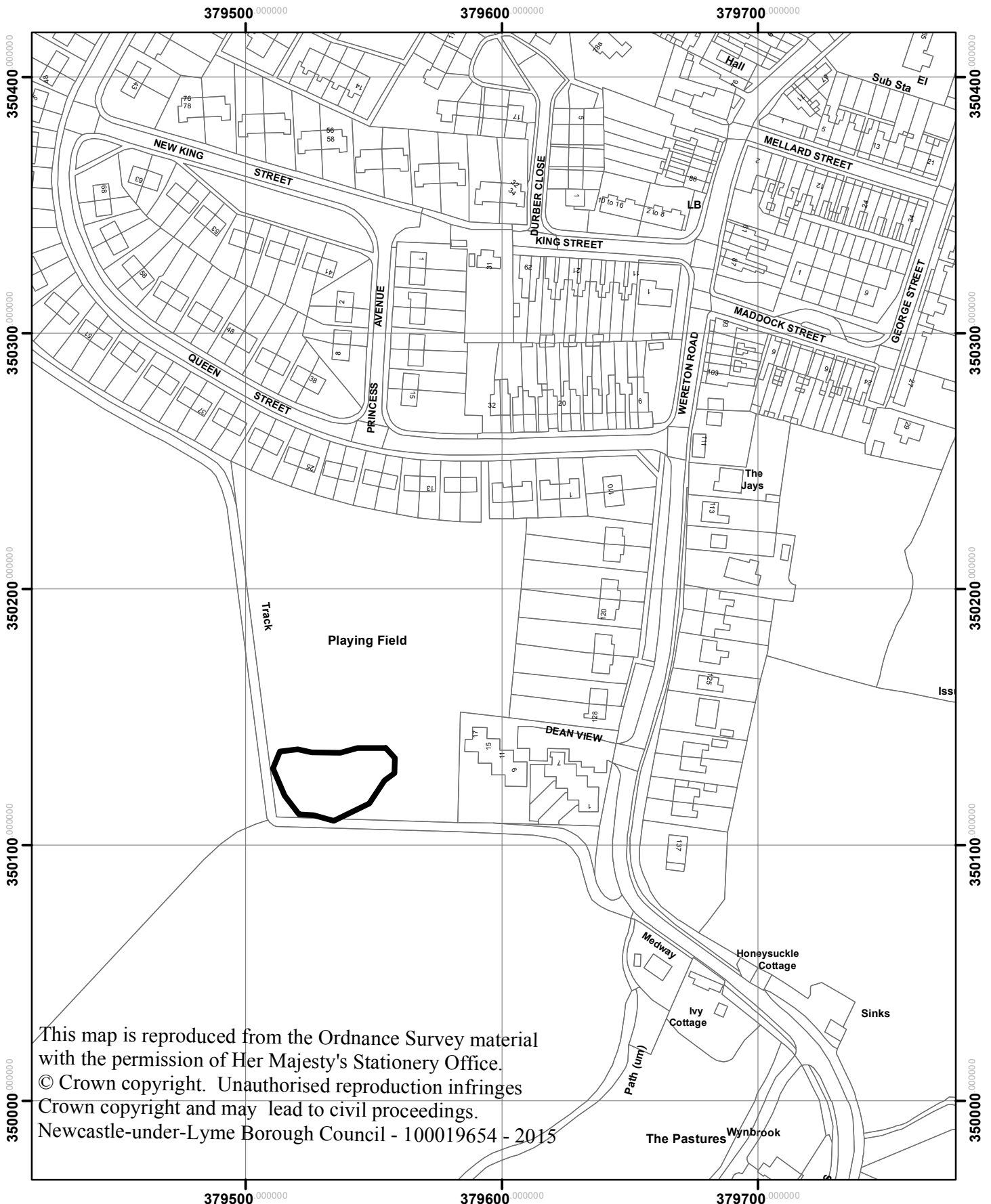
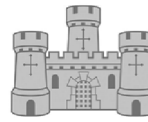
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

23rd November 2015

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CHAPEL BARN SHRALEY BROOK ROAD HALMER END
MR & MRS FRANKISH

15/00919/FUL

The application is for full planning permission for the subdivision of an existing dwelling to form two dwellings, the formation of new access onto Shraleley Brook Road and alteration to the existing parking and turning area.

The application site lies in the Green Belt and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map. Chapel Barn is a building on the Register of Locally Important Building and Structures.

The 8 week period for the determination of this application expires on 9th December 2015.

RECOMMENDATION

Permit, subject to conditions relating to the following: -

1. **Standard Time limit for commencement of development.**
2. **Approved plans.**
3. **Prior approval of any alterations to joinery and ironmongery (doors and windows).**
4. **Removal of permitted development rights on the proposed and retained dwelling.**
5. **Alterations and replacement of front boundary wall to have matching materials and design.**
6. **New areas of hardstanding to have matching materials.**
7. **Highway conditions relating to access, parking and turning areas, closure of the existing access, visibility splays and no gates.**

Reason for Recommendation

The subdivision of an existing dwelling to form two dwellings is considered to represent appropriate development within the Green Belt. Whilst the building is not located within a Rural Service Centre it is considered that it is in a sustainable location in close proximity to existing local services and in the context of the Council's position that a robust 5 year supply of deliverable housing sites cannot be demonstrated there is a presumption in its use as a dwelling. The negative impacts of the development – principally its location do not significantly and demonstrably outweigh the benefits of the development which relate to boosting housing land supply.

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

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

Key Issues.

This is an application for full planning permission for the subdivision of an existing dwelling to form two dwellings, the formation of new access onto Shraleley Brook Road and alteration to the existing parking and turning area.

The main issues to be considered with this proposal are:

- Is the proposal appropriate or inappropriate development in the Green Belt and if inappropriate, do the required very special circumstances exist to justify approval?
- Does the proposal comply with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?
- Does the proposal comply with policies on the location of new housing?

- Would there be any adverse design and visual impact of the proposal on the historic asset and surrounding countryside?
- Would there be any adverse impact on Highway Safety?

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.”

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

Paragraphs 89 and 90 of the NPPF set out the types of development that are not inappropriate in the Green Belt. These include the re-use of buildings provided that the buildings are of permanent and substantial construction and the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

The building was formerly a Congregational Chapel dating from 1900, which was converted to single residential use in the early 1990’s, a conservatory has been subsequently added to the building in 2014. This current proposal does not seek to extend the building further and as such it is considered that the proposal constitutes appropriate development.

Given that it is concluded that the proposed development is appropriate development, there is no requirement for the applicant to demonstrate a case for very special circumstances.

Compliance with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?

The NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

Local Plan Policy H9 indicates that before the conversion of rural buildings for living accommodation can be considered, evidence must be provided to show that the applicant has made every reasonable attempt to secure a suitable business use for the premises, subject to Policy E12. It concludes by listing a series of criteria that include the requirement that the building does not require reconstruction, extension or substantial alteration and its form bulk and general design is in keeping with its surroundings.

The building is structurally sound and the form, bulk and general design is considered to be in keeping with its surroundings.

The submission does not include any evidence to show that any attempt has been made to secure a suitable business use for the building, however given the building is already in residential use and that the NPPF contains no similar policy requirements, it is considered that no real weight can be given to this elements of Policy H9.

The submission also does not include any ecological report, however given that the proposal is not introducing a new use into the building and the proposal seeks to make no external alterations, it is not considered that there are any justifications to resist the application on ecological grounds although it is considered prudent to attach an advisory note regarding harm to protected species or their habitat.

Policy H9 states that as long as the requirements discussed above, conversion for living accommodation of a rural building in a sustainable location will be considered favourably. The application site is approximately 400m from Halmer End where there a number of services and facilities and a reasonable bus service. The village can be reached on foot in about 5 -10 minutes and although there is no footpath along part of the route, the road has a reasonably low volume of traffic. It is considered therefore that the occupiers of the proposed dwelling would have some option for alternative modes of transport to the car and therefore, the proposal is considered to represent sustainable development.

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

Policy H1 of the Local Plan does refer to the acceptability of housing conversions that comply with Policy H9.

As indicated above, Policy H9 of the Local Plan (NLP) requires potential conversions to living accommodation of a rural building to be in a sustainable location.

Policy ASP6 of the adopted Core Spatial Strategy (CSS) 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. The site should be categorised as being previously developed land given its residential use, the site also lies beyond the Major Urban Area of North Staffordshire and is not within a Rural Service Centre. It is not considered that the proposed dwellings would serve a wider local need nor would it support local services.

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) given that it does not have a full objective assessment of need. Policies such as NLP H1 and CSS ASP6 have to be considered to be 'out of date', at least until there is once again a five year housing supply. The starting point therefore must be one of a presumption in favour of residential development.

Paragraph 55 of the NPPF requires housing to be located where it would enhance or maintain the vitality of rural communities and seeks to avoid the provision of new isolated homes in the countryside unless there are certain special circumstances.

In terms of sustainability, as indicated above it is considered that the site is in a relatively sustainable location. The site is close to the village of Halmerend, thus not representing an 'isolated' location. 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) given that it does not have a full and objective assessment of need. The starting point therefore must be one of a presumption in favour of residential development. As has already been stated the development is considered to represent sustainable development

In the context of the Council's current inability to demonstrate a 5-year supply of deliverable housing land, the principle of residential development on this relatively sustainable rural site is considered acceptable.

Design and Visual impact on a heritage asset and the surrounding countryside

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

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

The application proposes no alterations to the exterior of the building. Alterations would be made to the parking areas and front boundary low wall, these are considered to be relatively minor although it is considered prudent to attach condition requiring matching materials and design.

The Conservation Officer's comments regarding the retention of the existing joinery and approval of any new joinery and ironmongery is considered appropriate given the property's status as a building

on the Register of Locally Important Building and Structures and this can be also controlled by the imposition of conditions.

Given the local historical importance of the building together with its location in the Green Belt it is considered prudent to remove the proposed and existing dwellings permitted development rights to enable the local planning authority to control future development and alterations to the building and on the site. Subject to such a condition it is considered the proposal would not conflict with policy B8 of the Local Plan which addresses proposals affecting locally important historic buildings.

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

Would there be any adverse impact on highway safety?

The proposed dwellings would be served by an amended site access. The existing vehicular access is sited adjacent to the property's site boundary which offers limited visibility onto Shraleley Brook Road. The new access would be positioned more centrally affording improved visibility onto the public highway.

The proposal also makes provision for additional hardstanding within the site for parking and turning of vehicles

Notwithstanding the concerns of the Parish Council it is considered these changes would improve highway safety of both the occupiers of the development and other road users. The Highway Authority has no objections subject to the imposition of conditions.

On the basis of the above it is not considered that an objection could be sustained on highway safety grounds.

Other matters raised

The objector and Parish Council have raised the issue of the disturbance of graves. It is not anticipated that there would be any disturbance of graves because the extension of the hardsurfaced areas within the site would only involve limited excavation and the remaining works are on the site boundary. It is, however, considered prudent to attach an advisory note regarding this matter.

The other matter raised by the objector and the Parish Council is a lack of drainage capacity in the area. This is not a material planning consideration. It is the developer's responsibility to ensure the services can be provided to serve the development.

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy 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 H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy H9: Conversion of Rural Buildings for Living Accommodation
Policy E12: The Conversion of Rural Buildings
Policy N17: Landscape Character - General Considerations
Policy N20: Area of Landscape Enhancement
Policy S3: Development in the Green Belt
Policy T16: Development – General Parking Requirements

Policy B8: Other Buildings of Historic or Architectural Interest

Other Material Considerations include:

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

Supplementary Planning Guidance/Documents

Register of Locally Important Buildings and Structures in Newcastle under Lyme SPD (March 2012)
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)
Space around Dwellings Supplementary Planning Guidance (2004)

Relevant Planning History

N21113	Conversion of Chapel to dwelling and erection of detached garage	Approved
14/00972/FUL	Retention of a conservatory	Approved

Views of Consultees

The **Highway Authority** has no objections subject to conditions regarding provision of access, parking and turning areas, closure of the existing access, un-obscured visibility splays and no gates on the access.

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

The **Conservation Officer** advises that this application affects a building on the Register of Locally Important Buildings and Structures. The chapel is converted into residential and this was undertaken before the building was added to the Register. The proposal is to separate the building into two residential units and will have no external impact. Should the existing front door be used, there is currently no ironmongery on the door and hope that it will be retained as a solid timber door as the plans indicate no change.

The permission is more for the change of use and change of the access position and raises no objections to this.

The **Conservation Advisory Working Party** have no objections but would like to see the existing door retained, the extension of the driveway in matching materials, and the low front boundary wall should match existing.

Audley Parish Council does not support the application due to highway concerns relating to the ability for 2 or more additional vehicles leaving the property onto a busy road.

They also raised concerns regarding the external appearance of the premises in particular the inclusion of door furniture on the chapel door, the size of the accommodation proposed, the disturbance of old graves and the drainage capacity of the development.

Representations

One letter of objection has been received raising the following concerns:

- Approval was granted for an unsympathetic conservatory last year and now the property is too big and needs to be divided into two dwellings
- The development involves a former Chapel and as such there are existing graves within the site.
- The new access would not improve visibility to vehicles leaving the site.
- A lack of existing drainage capacity to serve the development.

Applicant's/Agent's submission

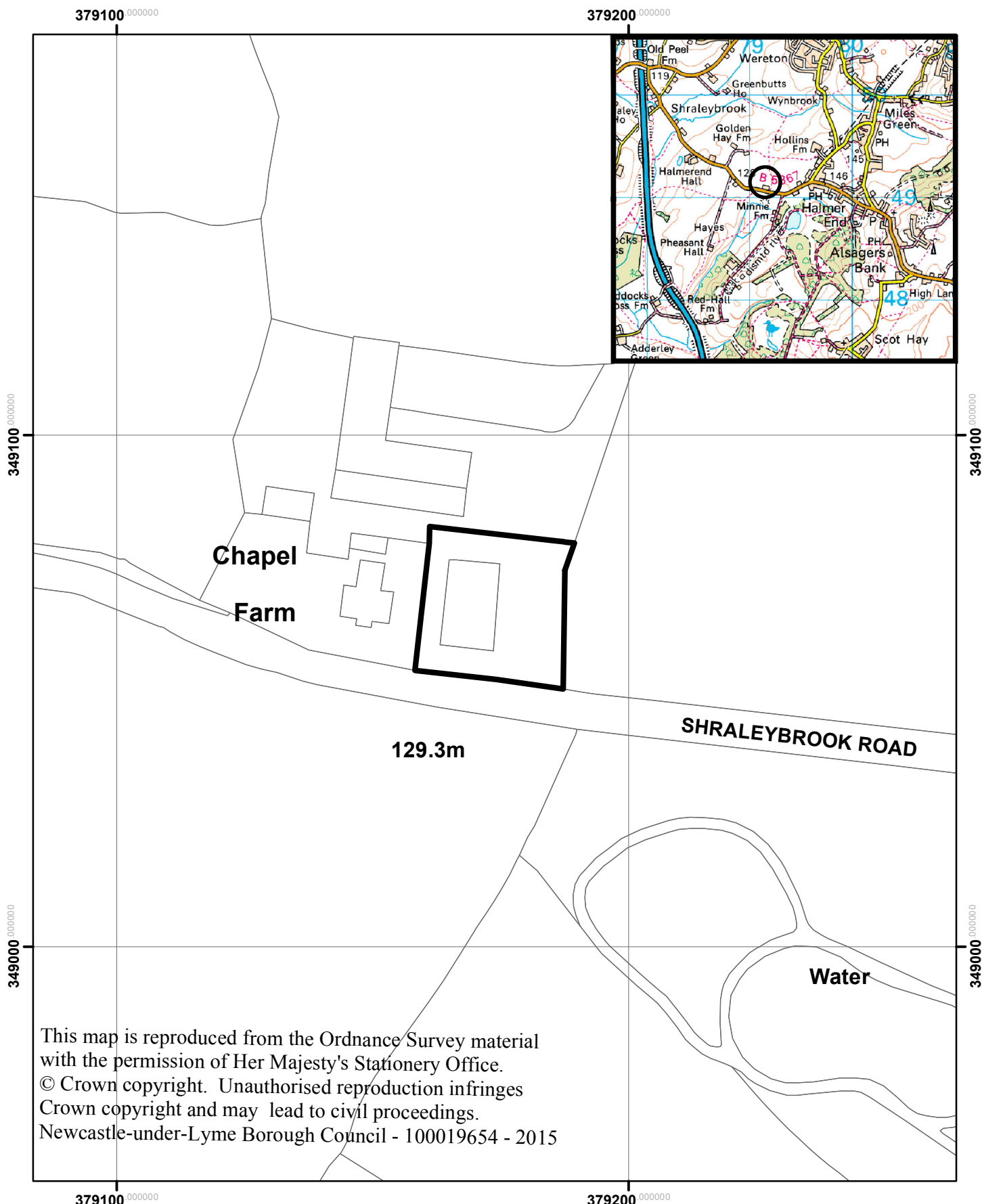
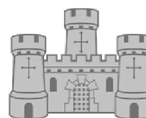
A Planning Statement in addition to application forms and plans have been submitted. These documents are available for inspection at the Guildhall and under the application reference number 15/00919/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

17th November 2015



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HOLIDAY COTTAGES, STONE QUARRY FARM, HIGH STREET, ALSAGERS BANK
MR S EVANS

15/00880/COU & 15/01010/DOB

The application is for full planning permission for the change of use of an existing two 2 bedroomed holiday flats to form a 3 bedroomed dwelling.

The application site lies in the Green Belt and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map. The site is accessed off the single existing entrance which currently serves the holiday lets and Stone Quarry Farmhouse.

The planning application is accompanied by an application to discharge a planning obligation made under Section 106 relating to a previous planning permission 98/00279/COU which dealt with the conversion of a redundant farm building into two holiday lets. The purpose of the obligation is to prevent the building being used for purposes other than as short stay tourist/holiday accommodation and the separate disposal of land to the holiday lets building.

The 8 week period for the determination of the planning application expired on 27th November 2015.

RECOMMENDATION

(a) **Permit planning application reference 15/00880/FUL, subject to conditions relating to the following: -**

1. **Standard Time limit for commencement of development.**
2. **Approved plans.**
3. **Removal of permitted development rights on the proposed dwelling.**

(b) **That the applicant be advised that the local planning authority are willing to discharge the section 106 obligation (application reference 15/01010/DOB) subject to the necessary completed documentation to discharge the obligation being in place within 6 months of the date of the above approval.**

Reason for Recommendations

The reuse of an existing building is considered to represent appropriate development within the Green Belt. Whilst the application site is not in one of the identified Rural Services Centres it is close to one thus not representing an 'isolated' location and in the context of the Council's current inability to demonstrate a 5-year supply of deliverable housing land, the principle of residential development on this relatively sustainable rural site is considered acceptable. The development proposes no external alterations to this building and as such it is considered there would be no adverse impact on the wider landscape or highway safety. The negative impacts of the development – principally its location do not significantly and demonstrably outweigh the benefits of the development which relate to boosting housing land supply.

Given the planning application proposal is considered to be acceptable this would render the existing planning obligation obsolete, having no purpose for the unrestricted residential use of the building and as such there is no reasons to not discharge the obligation.

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

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

Key Issues.

This is an application for full planning permission for the change of use of two holiday lets units to form one residential dwelling. The proposal would provide a three bedroom property. The application relates to a single storey building and the proposal involves no external alterations apart from the replacement of some doors and windows in existing openings.

An associated application has been submitted to discharge a planning obligation made under Section 106 relating to a previous planning permission 98/00279/COU which dealt with the conversion of a redundant farm building into two holiday lets that prevents the building being used for purposes other than as short stay tourist/holiday accommodation and prevents the separate disposal of land to the holiday lets building.

The main issues to be considered with this proposal are:

- Is the proposal appropriate or inappropriate development in the Green Belt and if inappropriate, do the required very special circumstances exist to justify approval?
- Does the proposal comply with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?
- Does the proposal comply with policies on the location of new housing?
- Would there be any adverse design and visual impact of the proposal on the historic asset and surrounding countryside?
- Would there be any adverse impact on Highway Safety?
- Whether the section 106 should be discharged?

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.”

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

Paragraphs 89 and 90 of the NPPF set out the types of development that are not inappropriate in the Green Belt. These include the re-use of buildings provided that the buildings are of permanent and substantial construction and the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

The single storey building was formerly an agricultural building which was converted to two holiday let in the late 1990’s. This current proposal does not seek to extend the existing building further and as such it is considered that the proposal complies with local and national Green Belt policy that it constitutes appropriate development.

Given that it is concluded that the proposed development is appropriate development, there is no requirement for the applicant to demonstrate a case for very special circumstances.

Compliance with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?

The NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

Local Plan Policy H9 indicates that before the conversion of rural buildings for living accommodation can be considered, evidence must be provided to show that the applicant has made every reasonable attempt to secure a suitable business use for the premises, subject to Policy E12. It concludes by listing a series of criteria that include the requirement that the building does not require reconstruction, extension or substantial alteration and its form bulk and general design is in keeping with its surroundings.

The submission includes a letter from the previous owner of the property who makes the following comments on the viability of the existing holiday lets:

- In last eight years he has tried to revive the holiday business but no success resulting in financial loss.
- The previous owner, prior to him, had closed the holiday business due to a lack of trade
- The holiday lets are not viable as the area is not attractive for tourists
- Weekend tourist prefers less remote areas for short breaks
- There are no recreational activities in the area to attract tourists

The building is structurally sound and the form, bulk and general design is considered to be in keeping with its surroundings.

The submission does not include any ecological report however given that the property is already in residential use and the proposal seeks to make no external alterations, it is not considered that there are any justifications to resist the application on ecological grounds although it is considered prudent to attach an advisory note regarding harm to protected species or their habitat.

Policy H9 states that as long as a number of requirements are met as discussed above, conversion for living accommodation of a rural building in a sustainable location will be considered favourably. The application site is sited between the villages of Halmer End and Alsagers Bank approximately 250m from each where there a number of services and facilities and a reasonable bus service. The villages can be reached on foot in about 5 minutes and there is access via pavements to both villages. It is considered therefore that the occupiers of the proposed dwelling would have some option for alternative modes of transport to the car and therefore, the proposal is considered to represent sustainable development.

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

Policy H1 of the Local Plan does refer to the acceptability of housing conversions that comply with Policy H9.

As indicated above, Policy H9 of the Local Plan requires potential conversions to living accommodation of a rural building to be in a sustainable location.

Policy ASP6 of the adopted Core Spatial Strategy 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. The site should be categorised as being previously developed land given its residential use, the site also lies beyond the Major Urban Area of North Staffordshire and is not within a Rural Service Centre. It is not considered that the proposed dwellings would serve a wider local need nor would it support local services.

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) given that it does not have a full objective assessment of need. Policies such as NLP H1 and CSS ASP6 have to be considered to be 'out of date', at least until there is once again a five year housing supply. The starting point therefore must be one of a presumption in favour of residential development.

Paragraph 55 of the NPPF requires housing to be located where it would enhance or maintain the vitality of rural communities and seeks to avoid the provision of new isolated homes in the countryside unless there are certain special circumstances.

In terms of sustainability, as indicated above it is considered that the site is in a relatively sustainable location. The site is close to the villages of Halmerend and Alsagers Bank, thus not representing an 'isolated' location. 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) given that it does not have a full and objective assessment of need. The starting point therefore must be one of a presumption in favour of residential development. As has already been stated the development is considered to represent sustainable development

In the context of the Council's current inability to demonstrate a 5-year supply of deliverable housing land, the principle of residential development on this relatively sustainable rural site is considered acceptable.

Design and Visual impact on the surrounding countryside

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

The development proposes no alterations to the exterior of the building and as such there are design issues to discuss.

Given its location in the Green Belt it is considered prudent to remove the property's permitted development rights to enable the local planning authority to control future development and alterations to the building and on the site.

The site falls within an Area of Landscape Restoration as defined by the Local Development Framework Proposal Map and Local Plan Policy N21 indicates that the Council will support, subject to other plan policies, proposals that would regenerate the landscape appropriate to its urban or rural location. Where development can be permitted developers will be expected to use the opportunity provided by the development to make a positive contribution towards landscape regeneration.

Given this proposal is for a change of use of building involving no alterations or extensions, this would not lead to the loss of any particular landscape features and the proposal would have minimal impact on the character of the Area of Landscape Restoration.

Would there be any adverse impact on highway safety?

The existing vehicular access onto High Street currently serves Stone Quarry Farmhouse and the two holiday units, should the proposal be implemented it would serve the proposed dwelling and farmhouse. Whilst the visibility on to High Street has a slightly impeded visibility it is considered the proposal would reduce the amount of traffic using this junction and as such should be viewed as an improvement to highway safety.

The Highway Authority has no objections sharing the view that the proposal would generate less vehicle trips than the existing situation.

On the basis of the above and notwithstanding the concerns raised by the Parish Council, it is considered that an objection to the proposal on highway safety grounds could not be sustained.

The removal of the Section 106 obligation

Prior to the granting of planning permission in February 1999 for the change of use to two holiday lets the then owner/applicant entered into a section 106 planning obligation relating to the development to prevent the building being used for purposes other than as short stay tourist/holiday accommodation and prevent the separate severance of the application site from other land and buildings in the ownership of the applicant and to restrict the use of the buildings to short let holiday accommodation only.

As indicated above the proposed change of use to a single residential property is acceptable in planning terms and as such this would make the Section 106 obligation obsolete therefore the application to remove the obligation should be agreed.

It is considered that the legal documentation should be in place within 6 months of the date of the planning approval, this will give the applicant sufficient time to enable this to happen whilst giving the opportunity to implement the permission without any unnecessary delay. If after this 6 month period the obligation is still in place the Local Planning Authority would have to assess, at that stage, whether it would be expedient to pursue enforcement action on the matter, however it is in the

applicants best interests to resolve this matter as soon as possible, given the section 106 obligation would be revealed on local land charge searches and this may affect any future sale of the property.

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 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 H9: Conversion of Rural Buildings for Living Accommodation
Policy E12: The Conversion of Rural Buildings
Policy N17: Landscape Character - General Considerations
Policy N21: Area of Landscape Restoration
Policy S3: Development in the Green Belt
Policy T16: Development – General Parking Requirements

Other Material Considerations include:

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

Supplementary Planning Guidance/Documents

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)
Space around Dwellings Supplementary Planning Guidance (2004)

Relevant Planning History

98/00279/COU	Approved	Change of use of a redundant farm building into two holiday accommodation units (subject to a section 106 obligation)
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Views of Consultees

The **Highway Authority** has no objections to the proposal

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

Audley Parish Council, commenting on both the planning application and the application to discharge the existing obligation, does not support the proposal due to road visibility issues onto High Street and the original scheme was built and approved only for the purposes of a holiday let and not a future residential dwelling.

Applicant's/Agent's submission

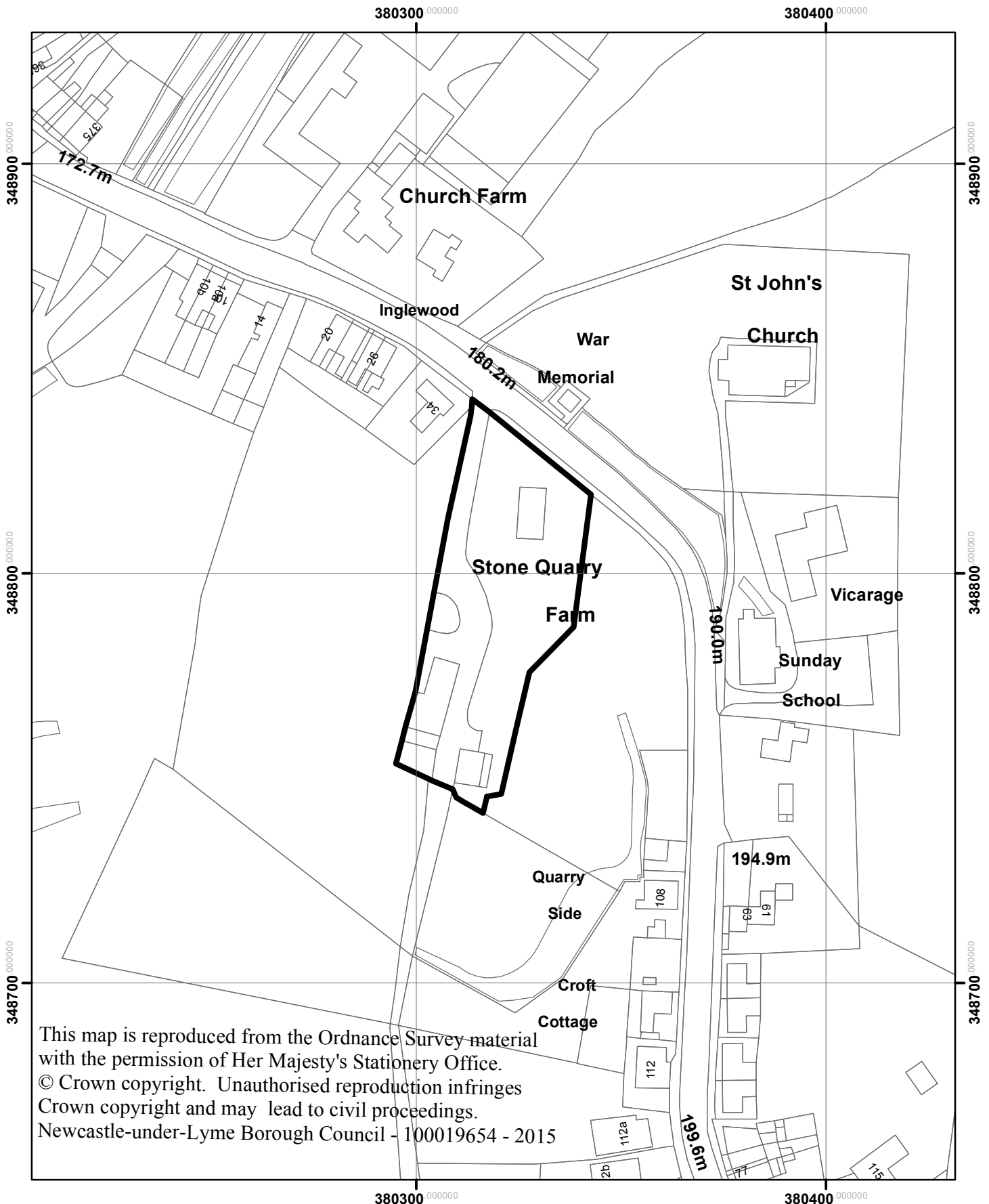
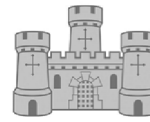
Application forms and plans have been submitted. These documents are available for inspection at the Guildhall and under the application reference number 15/00880/COU on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

20th November 2015



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APPEAL BY MR R HORNE AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISISON FOR A TWO STOREY EXTENSION AND ALTERATIONS TO THE REAR OF 22, BOON HILL, BIGNALL END

<u>Application Number</u>	15/00127/FUL
<u>LPA's Decision</u>	Refused by delegated authority on 13th April 2015
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	27th October 2015

The appeal site is within the Green Belt and therefore the Inspector considered the main issues to be whether the proposed development would represent inappropriate development in the Green Belt, the effect of the proposal on the openness of the Green Belt and, if it does amount to inappropriate development, whether the harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

In dismissing the appeal the Inspector made the following comments:

- The property has previously been extended with the Council stating that the volume increase of previous additions together with the appeal proposal would be approximately 58%. Although there is no definition of a 'disproportionate' addition within the Framework or Local Plan policy, it is considered that given the volume increase, amounting to over half of the original building, the proposal, alongside the previous additions to the dwelling would amount to a disproportionate addition.
- The proposed development amounts to inappropriate development, which is, by definition, harmful to the Green Belt contrary to Policy S3 of the Local Plan and Paragraph 87 of the Framework.
- The proposal would, by its very nature as an additional form of built development, erode the openness of the Green Belt contrary to Paragraph 79 of the Framework.
- Whilst the topographical constraints posed by the sloping nature of the site are noted, the extensions would nevertheless result in disproportionate additions to the original building and therefore the different site levels are a matter to which limited weight is attached.
- Whilst the existing kitchen is small in comparison to the dwelling, the considerations put forward would not be sufficient to clearly outweigh the harm to the Green Belt.
- The appeal must therefore fail.

Recommendation

That the decision be noted.

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APPEAL BY MR & MRS D AND K SLATER AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT AT LAND EAST OF WINDCLOSE COTTAGE, STONE ROAD, HILL CHORLTON

<u>Application Number</u>	14/00875/OUT
<u>Recommendation</u>	Refusal
<u>LPA's Decision</u>	Refused by Planning Committee on 3rd February 2015
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	9th November 2015

The Inspector considered the main issues to be

- the effect of the proposal on the character and appearance of the surrounding countryside,
- whether it would represent sustainable development in accordance with the Framework and
- its effect on the provision of affordable housing and educational facilities in the area.

In dismissing the appeal the Inspector made the following comments:

Character and Appearance

- As the Council has accepted that it cannot currently demonstrate a 5 year supply of deliverable housing sites relevant policies for the supply of housing should be considered to be not up-to-date in accordance with paragraph 49 of the Framework. Where relevant development plan policies are out-of-date, paragraph 14 of the Framework makes it clear that 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 at a whole, as specific policies in the Framework do not indicate that development should be restricted in this case. This is the basis on which the appeal is determined.
- Although the site is located between farm buildings and a pair of houses and near to a collection of buildings known as Slaters, it is a significant distance from any of the surrounding villages and is outside any recognised settlement. As such it lies within the open countryside in an area defined as a 'Landscape Maintenance Area'. The surrounding development consists mainly of farms and isolated dwellings that are inconspicuous within the generally rural area, which includes agricultural fields that are bounded by hedgerows and small clusters of trees, with some woodland.
- The scale of the proposed development has not been determined but even if restricted by condition to 4 dwellings, as suggested by the appellant, the proposed dwellings would result in infilling a relatively wide gap with built development along the A51 with the loss of agricultural land. The topography of the area would be likely to make the dwellings stand out in views from the highway and the resulting increased activity and domestication of the agricultural site would be clearly apparent as a change to its rural character and appearance.
- Based on this, the proposed residential development, even if restricted to 4 dwellings as suggested by the appellants, would be intrusive and would be out of keeping with the generally rural and open character of the surrounding countryside. The proposal would have an unacceptable adverse effect on the character and appearance of the surrounding area and would fail to accord with Core Spatial Strategy (CSS) Policy CSP1, as it would not respect the character of its rural setting and the settlement pattern created by the hierarchy of centres, and Policy N19 of the Local Plan, as it has not been demonstrated that the development would not erode the character or harm the quality of the landscape within an Area of Landscape Maintenance.

Sustainable Development

- The NPPF gives the three dimensions to sustainable development as economic, social and environmental. In terms of the economic dimension, the appellants have

argued that more housing would help sustain the businesses within Slaters shopping village but the proposal would provide limited additional custom to those businesses, most of which don't appear to cater for the everyday needs of families.

- The walk to Baldwin's Gate village along country lanes with no footway or street lighting would be unattractive and a safety risk for pedestrian use, particularly by children. The bus stops would need to be reached by crossing the busy A51 road to use an overgrown footway on the opposite side of the road. Also there are limitations to the bus service. Therefore, the distance of the site from the shops and services of Baldwin's Gate would make it likely that most of the journeys by occupiers and visitors to the proposed dwellings would be made by car, making it an unsustainable location.
- In terms of the social dimension, paragraph 55 of the NPPF indicates that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural communities. The proposed development would not achieve this objective as it would make very little contribution towards the vitality of the rural communities in the area due to the lack of reasonable access to nearby settlements by any transport other than the private car.
- Turning to the environmental dimension, the proposal would have an adverse impact on the rural character and appearance of the area for the reasons already given.
- The proposal would not therefore represent sustainable development in accordance with the Framework.

Affordable Housing and Educational facilities

- The appellants have submitted a signed S106 Unilateral Undertaking which would secure at least 2 affordable homes and a contribution towards education facilities.
- It is necessary to secure an appropriate level of affordable housing on the site to ensure that the proposal would not have an adverse effect on the provision of affordable housing in this area and would accord with CSS Policy CSP6.
- The education contribution would ensure compliance with CSS Policy CSP10. Staffordshire County Council (SCC) has advised that both Baldwin's Gate CE Primary School and Madeley High School are projected to have insufficient places available to accommodate the likely demand from pupils generated by the development and that a contribution of £38,684 for 2 primary places and 1 secondary place would be required. The contribution has a clear and reasonable rationale that meets the tests of CIL Regulation 122, although it should be related to the number of dwellings that would be provided.
- CIL Regulation 123 indicates that a planning obligation may not constitute a reason for granting planning permission to the extent that five or more separate planning permissions granted for development within the area of the authority and which provide for the funding or provision of that project or type of infrastructure have been previously entered into. The Council has suggested that there has been just one planning obligation entered into since April 2010 providing for a contribution towards Baldwin's Gate Primary School, but there have been five obligations entered into for Madeley High School. Although SCC has indicated that the contributions would be for a different project from that at Madeley High School, this is not included in the planning obligation and there is no substantive evidence to show where previous contributions have been used. Therefore, the obligation does not satisfy CIL Regulation 123 (3) and cannot be used in support of this appeal. As such, the proposal would fail to make adequate provision for educational facilities in accordance with CSS Policy CSP10.

Overall Conclusions

- The development would make a contribution towards the shortfall in the 5 year housing supply, including affordable housing, and reduced weight should be given to the relevant policies on housing. However, the adverse impacts of the development significantly and demonstrably outweigh its benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not represent sustainable development and having regard to all the matters raised, the appeal should fail.

Your Officer's Comments

The Inspector considered that the Unilateral Undertaking (UU) submitted by the appellant does not satisfy CIL Regulation 123 in relation to the securing of a financial contribution towards education provision. As Members are aware, Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010. There have been five obligations entered into for Madeley High School but on the basis that those existing obligations have been for a particular project and that any subsequent planning obligations will be for a different project, your Officers have considered and continue to consider that appropriately worded such contributions comply with CIL Regulation 123.

Although Officers of both the Borough Council and Staffordshire County Council advised that the UU should be worded to describe what specific projects the contributions are to be used for, the appellant did not take this on board. As a result, the Inspector considered that the education contribution obligation submitted by the appellant did not satisfy CIL Regulation 123. The Inspector did not make any comment however upon the acceptability or otherwise of the approach adopted by Officers in other cases.

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Confirmation of Tree Preservation Order

LAND AT WREKIN, MUCKLESTONE WOOD LANE, LOGGERHEADS

Tree Preservation Order No.171 (2015)

Town & Country Planning Act 1990

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

The Order protects trees situated on land to the north of Mucklestone Wood Lane, Loggerheads. The Order was made to safeguard the longer term visual amenity that the trees provide after issues relating to avoiding harm to trees 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 3rd July 2015. Approval is sought for the Order to be confirmed as made.

The 6 month period for this Order expires on 3 January 2015

RECOMMENDATION

That Tree Preservation Order No 171 (2015), land at Wrekin, Mucklestone Wood Lane, Loggerheads, be confirmed as made and that the owners of the site be informed accordingly.

Reasons for Recommendation

Your officers are of the opinion that the longer-term visual amenity of the trees is best secured by the making of a Tree Preservation Order. Your officers are of the opinion that the trees are generally healthy at present and are of sufficient amenity value to merit the making of a Tree Preservation Order. They are considered to be appropriate species for the locality and provide public amenity value due to their form and visibility from public locations. The making of the Order will not prevent the owners from carrying out good management of the trees 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 and 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 was received from the owner of the land adjacent to Wrekin supporting the making of the TPO.

Issues

The trees are situated in the grounds of and on land adjacent to Wrekin, which lies on the northern side of Mucklestone Wood Lane. They are deciduous and consist of seven individual trees and a group of three trees located within the grounds of Wrekin and the field to the west, and an area of woodland located to the north and west of Wrekin. They are mature and early mature and clearly visible from Mucklestone Wood Lane. There is also a

large mature oak tree adjacent to Mucklestone Wood Lane that is included in TPO number 5 which was made in 1966. 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.

Recent planning applications received to develop the site for residential use, numbers 14/00828/OUT, 15/00404/OUT and 15/00671/OUT, lead to concern that important trees could be lost. Some trees had been removed to partially clear the site prior to the applications being made. The applications failed to adequately address issues necessary to prevent harm to the trees as a result of the proposals, giving rise to concern that trees could be felled to remove them as an obstacle to development. Application 14/00828/OUT was withdrawn, 15/00404/OUT was refused and is currently the subject of an appeal and 15/00671/OUT was refused.

Your officers inspected all of the trees on the site on 18th June 2015 and carried out a TPO assessment, and found the trees listed worthy of an Order. They are considered to be in reasonable health, visually significant and an amenity to the locality, with the prospect of continuing to provide this for many years. Other trees on the site were not considered worthy. The Order was made and served on 3rd July 2015 in order to protect the long term well-being of the trees.

Date report prepared

13th November 2015

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

TITLE: **Land at Wrekin
Mucklestone Wood Lane
Loggerheads
TF9 4ED**

DESCRIPTION: **Tree Preservation Order
No 171 (2015)**

DRAWN BY: **PJS** SCALE: **1:1250@ A3**

DATE: **July 2015** DRAWING NO.: **TPO 171**

Signed _____

Date _____



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Confirmation of Tree Preservation Order

Land at Land at Fintry, Pinewood Road Newcastle under Lyme

Tree Preservation Order No.172 (2015)

Town & Country Planning Act 1990

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

The Provisional Order

The order protects two Oak trees on land within the front garden of Fintry on Pinewood Road, Ashley. The order was made to safeguard the longer term visual amenity that these trees provide following concerns that the owner may wish to fell or extensively prune these trees.

On 7th July 2105 the Tree Preservation Order was made to safeguard the longer term visual amenity that these trees provide.

Approval is now sought for the Order to be confirmed as amended.

The 6 month period for this Order expires on 7th January 2015.

RECOMMENDATION

That Tree Preservation Order No 172 (2015), on land at Fintry, Pinewood Road Ashley is confirmed as amended and that the owners of the site are informed accordingly.

Reasons for Recommendation

It is considered that the trees have a high amenity value, and that their loss or disfigurement would have a negative impact upon the visual amenity, not only of the site but also to the locality.

Other adjacent trees are affected by Tree Preservation Order T7/9. Before the order was made it had become apparent that the two Oaks are not covered by this order.

An assessment of the suitability of the two affected Oak trees for a Tree Preservation Order was made and found that both trees are worthy of an order.

The two Oak trees occupy a highly prominent position at the front of the property and are clearly visible from Pinewood Road.

The trees make a significant visual contribution to the character of Ashley Heath being at the forefront of views of the Heath, when observed from the wider valley setting (from the Jugbank direction), and from nearby public footpaths.

The trees have a high amenity value and their loss or disfigurement would have a negative impact upon the visual amenity, not only of the site but also to the locality.

There is concern of a risk that these trees may be felled or extensively pruned in a way that would damage their health and appearance.

In order to protect the long-term wellbeing of these trees they should be protected by a Tree Preservation Order.

Representations

Following the TPO publicity process, a statement of objection was received from the owner of the property.

1.1 The objectors statement covers many points that include:

- **Procedural aspects** of the way in which the council served the TPO, which the objector feels was incorrect.
- **Technical aspects concerning permissible work to trees already affected by Tree Preservation Orders.**
- The objector considers that it is not **expedient to protect these trees and that they do not meet the amenity requirement.**

1.2 **Procedural Aspects**

The objector points out a word on the schedule that is incorrectly placed. The word 'none' below the schedule of work specified has been deleted and as such the recommendation is to confirm the order as amended.

The objector points out that the order was not served on his son (whose details are on the electoral register) and as such considers the order has not been served correctly. The Council ascertains land ownership by carrying out a Land Registry search, not by checking the electoral register. To cover all eventualities, it is usual practice that the Council would serve letters, one addressed to the owner(s) (individually if more than one) and one addressed to 'the occupier'. The council maintains that the correct procedure has been followed in this case.

1.3 **Technical aspects concerning permissible work to trees already affected by Tree Preservation Orders.**

The objection refers to previous applications for pruning work to Trees within the property that are affected by another Tree Preservation Order. These matters are not considered as part of the process for serving and confirming a new Tree Preservation Order, and as such are not discussed in detail in this report. Confirmation of this Tree Preservation Order will not prevent the objector from applying for works to his trees, and should the objector wish he may appeal any future refusal or condition within 28 days of receiving his decision.

No application for tree works upon the two Oaks that are affected by TPO172 has been received.

1.4 The objector considers that **it is not expedient to protect these trees, and that they do not meet the amenity requirement.**

The Local Planning Authority is empowered to make Tree Preservation Orders if *'It appears to be expedient and in the interests of amenity to make provision for the preservation of trees.'*

The objector queries why T1 and T2 haven't been protected up to now.

As is the case for all local authorities, in many situations where trees (or woodlands) may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management, and for which there is no reason to believe that there is a risk of them being felled, pruned or damaged in a way which would have a significant impact upon the amenity of the area.

Local authorities may only make a TPO where it appears to them to be 'expedient' to protect a tree, group of trees or woodland which makes a significant contribution to amenity.

In this case there wasn't sufficient reason to believe that the Oak trees were at risk until the intention to prune these trees was made clear by email. The objection stated that the trees are not under immediate threat from felling or damaging to the point of destruction, although it is admitted that pruning works were to be carried out on these trees. Given our knowledge of the applicants' previous desire to carry out extensive pruning it was considered that there **was** a risk of the trees being felled or pruned in a way that would damage their health and appearance.

The required assessment of the present and future contribution of trees on this site was undertaken. The outcome was that the two Oak trees that weren't currently protected met the criteria and had significant amenity value and that as a result of the risk it was considered expedient that an Order be served on these trees.

There are trees at Fintry that are affected by another Tree Preservation Order, and there are also trees at the property that do not meet the criteria for protection by an Order.

- 1.5 The objector challenges the impact that the trees have upon amenity and the process by which the trees are assessed.
- 1.6 The method of assessment based upon recommendations under Tree Preservation Legislation.
- 1.7 The objector 'entirely refutes' that T1 and T2 are visually prominent. Your officer maintains that the trees are at the forefront of views of Whitmore Heath from the Jugbank direction and are clearly visible from Pinewood Road and nearby public footpaths.
- 1.8 The objector 'denies' that the trees contribute visually to Ashley Heath. Your officer maintains that the trees contribute visually to Ashley Heath being in a prominent visual location and that they meet the criteria for protection by a Tree Preservation Order.
- 1.9 The objector considers that neither tree is worthy of protection:
 - T1 due to its position in front of T81 (protected by another Order) which towers above T1.

Your officer acknowledges that T81 (Oak tree to the rear of T1) is an important and visually significant tree, however maintains that T1 to the front of this tree is highly visually prominent roadside frontage tree.

- T2 due to its being 'misshapen' and 'stunted'.

It was noted in the assessment that the tree is somewhat 'one-sided' due to the presence of other trees at Fintry, however the tree does have sufficient room for future growth and meets the criteria for protection.

- 1.10 The objector considers that the 'local authority has failed to *'strike the correct balance between the interests of the local community in preserving an amenity and those who have to suffer permanently darkened rooms in summer months where trees dominate the garden environment to the detriment of those denied the opportunity to properly control what is rightfully their property'*.

Given the position of the two protected Oak trees when compared with other protected trees at Fintry, it is considered unlikely that the two Oak trees would add considerably to the overshadowing effect of the garden and property.

It is considered that the removal boundary trees and shrubs that do not meet the criteria for protection by Tree Preservation Order would go a considerable way to increasing light penetration onto the garden, and that limited pruning in accordance with BS3998:2010 (for which a Tree Work Application would be required) would go some way to remedying issues of concern, albeit this level of pruning may not be to the level that the applicant desires. Confirmation of this Tree Preservation Order will not prevent the objector from applying for works to his trees, and should the objector wish he may appeal any future refusal or condition within 28 days of receiving his decision.

- 1.11 Your officer would suggest that a tree work application would be required should the objector wish to proceed with his plans to construct a front garden wall and security gate, to ensure that a procedure is followed that does not cause damage to protected trees.
- 1.12 Your officers do not consider that there is sufficient justification for this order not to be confirmed.
- 1.13 In order to protect their long-term well-being and their future potential as an amenity, the two Oak trees should be protected by a confirmed Tree Preservation Order.
- 1.14 Your officers recommendation is that Tree Preservation Order T172 (2015) be confirmed as amended, and that copies of the confirmed order be served as required.

Date report prepared

16th November 2015

T2: Oak

T1: Oak



View of T1 and T2 from public footpath

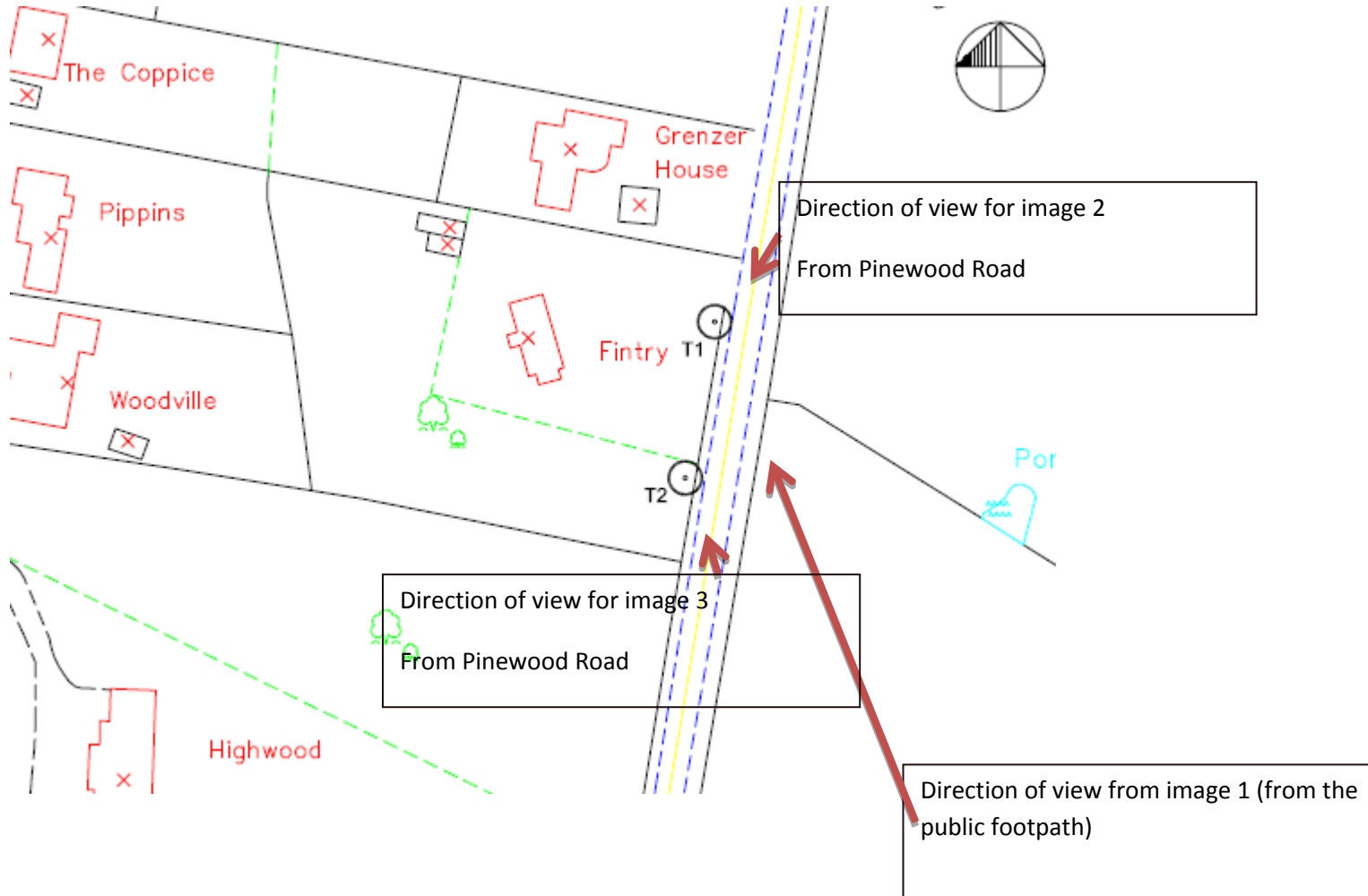


T1: Oak

Viewed from Pinewood Road



T2: Oak Viewed from Pinewood Road



**Applications for Financial Assistance from the Conservation and Heritage Fund for,
The Old Vicarage, Congleton Road, Mow COP (Ref: 15/16005/HBG)**

RECOMMENDATION:

That the following grant is approved:-

- 1. £751 for the replacement of 4 timber windows at The Old Vicarage, Congleton Road, Mow Cop, subject to the appropriate standard conditions**

Purpose of report

To enable members to consider this application for financial assistance.

No 1, The Old Vicarage, Congleton Road, Mow Cop

An application has been received from the owner of the property which is a Grade II Listed Building. The application is for the replacement of 4 single glazed windows which are rotten. The windows are timber with a painted finish and will be replaced like for like. The total cost of this work is £3,757. (No VAT)

The property has taken a previous grant – £2,100 in 2013 for repair to a lead box gutter and replacement timber windows of appropriate design. All of this work has been completed and the grant claimed.

The current works are eligible for grant up to 20% of the total costs which comes to £751.

The views of the Conservation Advisory Working Party on the application are being sought and will be reported to the Planning Committee.

Financial Implications

There is sufficient funding to meet the grant application with £29,000 in the Fund allowing for current commitments.

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MEMBERS PROTOCOL ON PLANNING MATTERS

Purpose of the Report

To provide the Planning Committee with an opportunity to inform the Finance, Resources and Partnerships Scrutiny Committee of its views on the proposed Members Protocol on Planning Matters.

Recommendation

That should the Planning Committee wish to comment on the proposed Protocol it does so now, so that its views can be taken into account at the meeting of the above Scrutiny Committee due to be held on 28th January 2016.

1. **Background**

- 1.1 The Council has at present as an Appendix to its Constitution a 'Planning Committee Members' Protocol'.
- 1.2 That document is out of date in a number of respects. It does not reflect the provisions of the Localism Act, current guidance, most particular 'Probity in Planning' by the Local Government Association and the Planning Advisory Service, and a number of decisions made by the Planning Committee over the years relating to its policy, for example with respect to site visits.
- 1.3 Cabinet agreed, in its response to the Planning Peer Review that a review of that document should be undertaken. An updated document was considered by the Constitution Review Working Group at a meeting held on 24th November 2015. A copy of the document is attached to this report. Members of the Group had no comments to make in relation to the Protocol and were happy to recommend it to the Finance, Resources and Partnerships Scrutiny Committee for consideration. They also agreed that the Protocol should be shared with the Planning Committee so that any comments from the Planning Committee can then be considered by the Finance, Resources and Partnerships Committee at its meeting on the 28th January 2016 prior to the Protocol being submitted to Full Council in February for agreement.

2. **Date report prepared**

30th November 2015

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APPENDIX 21

MEMBERS' PROTOCOL ON PLANNING MATTERS

1. Aim of Protocol

- 1.1 This Protocol applies to Members who are involved in the planning system
- 1.2 The role of an Elected Member on the Planning Committee involves balancing representation of the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making in the wider public interest on what can be highly controversial proposals. Planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework. The decision-making process should be open and transparent
- 1.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings
- 1.4 Opposing views are often strongly held by those involved. Whilst councillors must take account of these, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons and in accordance with the statutory framework
- 1.5 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper
- 1.6 Whilst the determination of a planning application is not a 'quasi-judicial' process (unlike, say, certain licensing functions carried out by the Council), it is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Local Government Ombudsman on grounds of maladministration or a breach of the Council's Members' Code of Conduct
- 1.7 The successful operation of the planning system relies on mutual trust and an understanding of Members' and officers' roles which are different but complementary. Both serve the public but Members are

responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. Officers who are Chartered Town Planners are subject to the Royal Town Planning Institute's Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute

1.8 The aim of the Protocol is to ensure that Members involved in Planning matters act in a way in which is not only fair and impartial but is also clearly seen to be so

1.9 This Protocol relates mainly to planning applications. The same principles are however applicable to other types of approvals sought under planning legislation and to the various kinds of enforcement action within the purview of the Planning Committee. It is also applicable to the development and approval of planning policy by Council.

2. Some Words of Caution

2.1 The Protocol does not replace or supersede or override any duty or responsibility of a Member to declare an interest of any kind in accordance with the requirements of the Local Government Act 2000 (Section 81(1)), the Members' Code of Conduct set out in Appendix 18 of the Constitution, or in accordance with any current guidance. The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct (see paragraph 6.1 of Appendix 18 relating to disclosure of pecuniary interests)

2.2 In order to keep Members aware of matters within the scope of paragraph 2.1 above which may affect the operation of this Protocol, changes or new advice will be reported to Members as appropriate and the Protocol refreshed accordingly

2.3 The Protocol does not of itself authorise any departure from the requirements of the Council's Constitution or its Procedure Rules or Financial Regulations.

3. Training

3.1 Training for all Members on the Planning Committee and their substitutes¹ is mandatory. In the event of a Member not attending at

¹ The Council's Constitution (Appendix 9 Revised April 2015) states as follows

For every member of the Committee, there can be one substitute nominated.

Any Member who is due to miss a meeting should inform the Chair of the relevant Committee at least 24 hours before the Committee is due to meet (and that it is the Member concerned who does this)

At any one meeting, there should be no more than 2 substitutes per political grouping present

Training will be provided for nominated substitutes on regulatory committees

least two-thirds of any session of training events labelled as mandatory the Chair and Vice Chair of the Planning Committee are allowed to use their discretion in considering whether a Member can remain on the Committee with full voting rights²

- 3.2 Other Members of the Council are welcome to join the training sessions if they wish and there is spare capacity.

4. Discussions with those proposing developments

- 4.1 Early councillor engagement is nowadays encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need. Members of the Planning Committee and their substitutes should not, other than in the context of the Council's Strategic Planning Consultative Group or meetings organised by and attended by officers, normally be involved in discussions with an applicant for planning permission for any Major or Minor Development.³ If Members are so involved, it will be on the basis that it must always be made clear at the outset of those discussions that they do not bind the Committee to making a particular decision, and that any views expressed by Members are personal and provisional. By the very nature of such meetings not all the relevant information may be at hand, nor will formal consultations with interested parties have taken place
- 4.2 Members are advised not to give advice on the development plan or material considerations as they may not be aware of all the issues at an early stage
- 4.3 Similarly Members should not become drawn into negotiations, which should be done by officers (keeping Members up to date) to ensure that the Council's position is co-ordinated
- 4.4 A written note of all such meetings will be made by the attending officer. A note will be taken of any phone conversations by the officer involved and relevant emails recorded for the pre-application enquiry file
- 4.5 Initially, until the issue of confidentiality has been clarified by the party making the enquiry and officers have determined whether or not there is a legitimate reason for confidentiality, Members involved in such

Where a Planning Committee site visit is involved, substitutes will only be allowed to attend and vote at the relevant Planning Committee if they have been on the site visit

² Resolution of 23rd June 2009 Planning Committee Item No.148

³ Major' applications are defined as those applications where 10 or more dwellings are to be constructed (or if the number is not given, the site area is more than 0.5 hectares), and, for all other uses, where the floor space proposed is 1000 square metres or more or the site area is 1 hectare or more.

'Minor' applications are those for developments which do not meet the criteria for 'Major' development nor the definitions of Change of Use or Householder Development

pre-application discussions should treat them on a confidential basis. Unless there is a legitimate reason for confidentiality concerning a proposal, there will be an expectation that records of such enquiries and discussions will be available as a matter of public record, particularly upon the submission of an application

- 4.6 Similar considerations will apply when the Council is considering its plan-making, particularly when making new site allocations in emerging development plans.

5. Site Visits

- 5.1 The Planning Committee may resolve, when considering an application, to defer a decision on the application in order to undertake a site visit as a Committee. In such cases no decision relating to that application will be made before or during the course of the site visit; decisions on such matters will be taken by a subsequent meeting of the Committee
- 5.2 Site visits by the Committee are generally held where there is a clearly identified benefit to the Committee in enabling Members better to appreciate particularly contentious or complex proposals, and where the impact is difficult to visualise or assess from the submitted information and plans. The Member proposing at Committee a site visit should indicate the nature of such benefit. The reason(s) for the holding of the site visit shall be recorded in the minutes of the Committee⁴
- 5.3 If the Head of Planning so wishes he may bring to the Planning Committee, at a time when that application is not being considered, a proposal for the holding of a site visit by the Planning Committee
- 5.4 The site visit shall be undertaken in accordance with the Planning Committee's agreed site visit protocol which is attached to this Protocol⁵
- 5.5 The officer attending the site visit will take a formal list of Members in attendance at the formal opening of the site visit
- 5.6 Where a site visit has taken place, it will be referred to in the report to Committee
- 5.7 When an application that has been subject to a site visit is brought to the Planning Committee for determination, Members, including their substitutes, (see Appendix 9 of the Constitution, paragraph 4) who did not attend the site visit shall neither be eligible to take part in the debate concerning the item's determination nor shall they be eligible to vote upon that determination.⁶

6. Procedure at Meetings of the Planning Committee

⁴ As resolved Planning Committee 1st April 2015

⁵ Last revised 1st April 2015 Planning Committee

⁶ As resolved Planning Committee 1st April 2015

It is paramount that any decision the Committee reaches must be reached fairly and impartially and is seen to be so

6.1 *Registration and disclosure of interests*

Chapter 7 of the 2011 Localism Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests can be found at Appendix 18, Annex 3 of the Constitution. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a councillor or co-opted member has a disclosable pecuniary interest, are criminal offences

6.2 For full guidance on interests, see ‘Openness and Transparency on Personal Interests: Guidance for Councillors’, Department for Communities and Local Government, March 2013. (This Protocol does not seek to replicate the detailed information contained within the DCLG note). Advice should always be sought from the Council’s Monitoring Officer prior to the meeting. Ultimately, responsibility for fulfilling the requirements rests with each Member

6.3 The provisions of the Act seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor’s wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor’s involvement would be appropriate

6.4 The Council’s Members’ Code of Conduct establishes what interests need to be disclosed. All disclosable interests should be registered and a register maintained by the Council’s Monitoring Officer and made available to the public. Members should also disclose that interest orally at the committee meeting or meeting of Council when it relates to an item under discussion

6.5 A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the councillor becoming aware of such changes

6.6 A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the Member from the Committee or meeting of Council. In certain circumstances, a dispensation can be sought from the appropriate body or officer to take part in that particular item of business

6.7 If a Member is present at the Planning Committee specifically for the purposes set out in the Council’s procedure for making direct representations to the Planning Committee, they may remain in the meeting after they have made their presentation but they should take no further part in the determination of that item

- 6.8 If a Member has a (non-pecuniary) personal interest, he or she should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition
- 6.9 It is always best to identify a potential interest early on. If a Member thinks that they may have an interest in a particular matter to be discussed at the Planning Committee or at Full Council he or she should raise this with the Council's Monitoring Officer prior to the meeting
- 6.10 The Planning Committee operates a guillotine on late representations and submissions⁷. Members should determine applications before them upon the basis of the information contained in and referred to within the officer report. In the event of Members of the Planning Committee and their substitutes receiving representations direct from applicants, their agents and third parties, particularly after the guillotine on late representations, they should bring such material to the attention of officers, and consider carefully any advice given to them by officers with respect to the consideration of such representations.

7. Applications by Members

- 7.1 All applications for planning permission by Members or those related⁸ to them must be dealt with by the Planning Committee and not under delegated powers. The standard national planning application form requires the applicant to indicate whether they are a member of staff, an elected Member, related to a member of staff or related to an elected Member
- 7.2 Members making such an application or with knowledge of such an application being made, should inform the Council's Head of Planning of this within 14 days of the submission of such an application
- 7.3 In the event of the Head of Planning becoming aware that an application is being made by a Member or a person related to a Member, they will inform the Council's Monitoring Officer
- 7.4 Members would undoubtedly have a disclosable pecuniary interest in their own application, and potentially their relatives' application, and should not participate in its consideration. If a Member is present at the Planning Committee specifically for the purposes set out in the Council's procedure for making direct representations to the Planning Committee, they may remain in the meeting after they have made their presentation but they should take no further part in the determination of that item.

8. Members as Agents for Others

⁷ As resolved Planning Committee June 2008, and amended February 2009

⁸ 'Related' means related by birth or otherwise, closely enough that a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias on the part of the decision maker in the local planning authority

- 8.1 Members who act as a paid agent for people making a planning application or objecting to such an application, or for people in respect of whose development enforcement or similar action is proposed, should play no part in the decision making process for that matter. They must inform the Head of Planning beforehand of their involvement, and the person on whose behalf they are acting. Any such matter will be considered by the Planning Committee (and not dealt with under delegated powers) and the agency of the Member will be reported to the Committee
- 8.2 Where a person related to a Member acts as a paid agent for people making a planning application or objecting to such an application, or for people in respect of whose development enforcement or similar action is proposed, that Member, once they are aware of this, should play no part in the decision making process for that matter. They must inform the Head of Planning beforehand of their relatives' involvement, and the person on whose behalf their relatives are acting. Any such matter will be considered by the Planning Committee (and not dealt with under delegated powers) and the agency of the Member's relative will be reported to the Committee.

9. Decisions Contrary to Head of Planning's Recommendation to the Planning Committee

- 9.1 Members of the Committee and their substitutes should draw to case officer's attention any concerns that they have with an application coming to the Committee for determination, as soon as possible having received notice of the application in the 'weekly list of applications received', so that potential solutions are sought with the applicant in accordance with the requirements of the National Planning Policy Framework⁹.
- 9.2 Full advantage should be taken of the use of conditions in planning permissions to make developments acceptable¹⁰
- 9.3 Members of the Committee and their substitutes who are disposed to move refusal of a proposal contrary to recommendation are urged to contact the Head of Planning (or his representative) no less than 24 hours before the Committee meeting, with details of the reasons they are minded to give for such a refusal
- 9.4 When a proposal to refuse to grant planning permission is made at the Committee contrary to the officer's recommendation, advice should be sought by the Committee as to the most appropriate way to meet the requirement to work in a proactive and positive manner with applicants. That may in certain circumstances such as where technical advice is

⁹ As resolved Planning Committee May 2015

¹⁰ As resolved Planning Committee May 2015

not being accepted include a deferral of the decision in order to enable further technical advice to be obtained and reported to the Committee¹¹

- 9.5 The mover and seconder of a resolution of refusal contrary to officer recommendation should be identified by the Chair and recorded in the minutes of the Committee, and in the event of an appeal being lodged there is an expectation that those Members will make themselves available as witnesses on behalf of the Council in the appeal proceedings should either the Head of Planning or the Head of Business Improvement, Central Services and Partnerships or their representatives deem that appropriate¹²
- 9.6 The law requires that decisions should be taken in accordance with the development plan, unless material considerations indicate otherwise (s38A Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990)¹³
- 9.7 Where the Committee propose to make a decision which is contrary to the recommendation of the Head of Planning the Chair will allow the presenting officer to explain the implications of a contrary decision.

10. Predisposition, predetermination, or bias

- 10.1 Members of the Planning committee and their substitutes, (and of Full Council when the Local Plan is being considered), need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies.
- 10.2 The Courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the committee's decision susceptible to challenge by Judicial Review
- 10.3 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such planning decisions
- 10.4 Section 25 of the Localism Act also provides that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter
- 10.5 This reflects the common law position that a councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening

¹¹ As resolved Planning Committee May 2015

¹² As resolved Planning Committee May 2015

¹³ In dealing with an application for planning permission the Local Planning Authority shall have regard to (a) the provisions of the development plan, so far as material to the application, (b) any local finance considerations, so far as material to the application, and (c) any other material consideration

to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased

- 10.6 If a councillor has predetermined their position, they should withdraw from being a member of the decision-making body for that matter. This would apply to any member of the Planning Committee who wanted to speak for or against a proposal, as a campaigner (for example on a proposal within their ward). If the Council rules allow substitutes to the meeting, this could be an appropriate option
- 10.6 Authorities will usually have a Cabinet/Executive Member responsible for development and planning. This councillor is able to be a member of the Planning Committee. Leading members of a local authority, who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of business, normally exclude themselves from decision making committees.

11. Lobbying

- 11.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a member of the Planning Committee
- 11.2 As the Nolan Committee's 1997 report stated: "It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves"
- 11.3 Lobbying, however, can lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved
- 11.4 As noted earlier in this Protocol, the common law permits predisposition but nevertheless it remains good practice that, when being lobbied, Members (and those on the Planning Committee and their substitutes in particular) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments
- 11.5 In such situations, they could restrict themselves to giving advice about the process and what can and cannot be taken into account. Members can raise issues which have been raised by their constituents, with officers. If Members do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at Committee

- 11.6 It is very difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is, ultimately, the responsibility of the individual councillor
- 11.7 Planning decisions cannot be made on a party political basis in response to lobbying. The use of political whips to influence the outcome of a planning application is likely to be regarded as maladministration
- 11.8 Planning Committee members and their substitutes should in general avoid organising support for or against a planning application, and avoid lobbying other councillors
- 11.9 Councillors should not put pressure on officers for a particular recommendation and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity
- 11.10 Members may be tempted to form a judgement about an application early on in its passage through the planning system, whether or not they have been lobbied. The nature of the proceedings of the Planning Committee is such however that it is important that those arriving at the decision should not be vulnerable to an accusation of partiality because they have committed themselves one way or the other or have declared publicly the way in which they intend to vote on the application
- 11.11 When being lobbied about particular applications or proposals, Members of the Planning Committee or their substitutes must, therefore, avoid expressing an opinion either to applicants or objectors or supporters which may be taken as indicating that they have already made up their mind on the issue before they have considered all the information, evidence and arguments, or which appears to commit the authority on a particular application. In such situations, it is safer if they restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the Head of Planning in order that their opinions can be included in the Head of Planning's report to the Committee
- 11.12 Members of the Planning Committee or their substitutes need to take account of the general expectation that a planning application will be processed and determined in a transparently open and fair manner and that the Committee's decision will be taken on the merits of the application having regard to the provisions of the Development Plan and all other material considerations, including local finance considerations. It would therefore be inconsistent with open and fair treatment for a Member of the Planning Committee or their substitutes to organise support for or opposition to a particular proposal, or to lobby other Members

- 11.13 It is important also to recognise that a member of the Planning Committee who is a Member for the Ward affected by a particular planning application may be in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome – or even to campaign actively for it – it would be very difficult for that Member to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed all the information, evidence and arguments presented
- 11.14 Similar issues can arise if the Committee member is also a Member of the Parish Council to whose area the application relates
- 11.15 Whilst there is a view that the proper course of action for such a Member would be to make an open declaration and not to vote, this would be a severe restriction on the Member's ability to represent the views of the electorate
- 11.16 Accordingly, if a member of the Committee or a substitute wishes to express a preliminary opinion or to give preliminary support to a particular body of opinion, that Member should make it clear that he or she will only be in a position to take a final decision after having heard and/or seen all the relevant information, evidence and argument put before the Planning Committee
- 11.17 However, any member of the Committee or a substitute who expresses publicly a final view on a planning application prior to the Committee meeting at which a decision is to be taken, or who organises support for, or opposition to, a particular proposal, or lobbies other Members should declare an interest and not vote on that matter, though having declared that interest he or she may speak on it as a Member of the Committee
- 11.18 The Local Government Association suggests that in most cases, short of high profile active lobbying for a particular outcome, it should be possible for a Member to give support to a particular body of opinion whilst waiting until the Committee meeting and hearing and/or reading all the information, evidence and arguments presented before making a final decision. The striking of the balance in such cases is ultimately the responsibility of the individual member and in doing so, regard needs to be paid to the general rules laid down in the Members' Code of Conduct in Appendix 18 and the responsibility of the Councillor alone to decide what view to take on any question, on its merits and not to do anything which could not be justified to the public
- 11.19 Since a planning application which is to come before the Planning Committee for a decision cannot be decided upon before the meeting of the Committee, when all relevant available information is to hand and has been considered, a political group meeting should not be used to

decide how Members should vote. Planning Committee members are not subject to a party whip

- 11.20 Members are entitled to make representations with respect to planning applications but should not put pressure on any officer for a particular recommendation, or to exercise a delegated power in a particular way. (See also Appendix 20 of the Constitution – Elected Member/Officer Relations Protocol).

19th November 2015