

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

Members: Councillors Burgess, Fear, S Hambleton, Heesom, Mancey, Northcott, Owen, Panter, Pickup (Vice-Chair), Proctor (Chair), Reddish, Simpson, Sweeney, Turner, G Williams and J Williams

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

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

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

FIELD_TITLE

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

PLANNING COMMITTEE

Tuesday, 13th September, 2016
Time of Commencement: 7.00 pm

Present:- Councillor Bert Proctor – in the Chair

Councillors Fear, S Hambleton, Heesom, Holland, Northcott, Owen,
Panter, Pickup, Reddish, Simpson, Sweeney, Turner,
G Williams, J Williams and Winfield

Officers Louise Beeby, Guy Benson, Nick Bromley, Geoff Durham,
Jennet Hough, Trevor Vernon and Darren Walters

1. APOLOGIES

Apologies were received from Councillors Burgess and Mancey.

2. DECLARATIONS OF INTEREST

Councillor Turner declared an interest in application 16/00646/DEEM4 as Portfolio Holder for Assets.

Councillor Simpson declared an interest in applications 16/00612/FUL and 16/00663/FUL as a relative of a resident at the property.

3. MINUTES OF PREVIOUS MEETING(S)

Resolved: That the minutes of the meeting held on 16 August, 2016 be agreed as a correct record subject to the inclusion of Councillor Fear and Councillor Simpson's apologies and the recording of Councillor Winfield as in attendance.

4. APPLICATION FOR MAJOR DEVELOPMENT - LAND TO REAR OF FORMER RANGLES GARAGE, HIGHERLAND, NEWCASTLE. DECIDEBLOOM LTD. 16/00405/REM

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

- (i) The development shall be carried out in accordance with the conditions in outline planning permission 15/00077/OUT.
- (ii) Development to be built in accordance with revised plans unless overridden by a condition as indicated below
- (iii) Prior approval of all external facing materials
- (iv) Prior approval of additional soft and hard landscaping details including tree planting.
- (v) Highway matters – internal access and vehicle parking provisions.
- (vi) Tree protection matters including Arboricultural Method Statement, Tree Protection Plan, Schedule of works to retained

trees and removal of the proposed balconies from the approved plans related to building B1.

5. APPLICATION FOR MAJOR DEVELOPMENT - MIDLAND HOUSE, LONDON ROAD, CHESTERTON. REGENESIS DEVELOPMENTS LTD. 16/00623/REM

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

- (i) The development shall be carried out in accordance with the conditions set out in outline planning permission 12/00118/OUT.
- (ii) Plans.

6. APPLICATION FOR MINOR DEVELOPMENT - LAND SOUTH OF STAFFORD AVENUE, NEWCASTLE. NEWCASTLE-UNDER-LYME BOROUGH COUNCIL. 16/00646/DEEM4

Councillor Turner remained in the room but took no part in the discussion.

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

- (i) Standard time limit.
- (ii) Subsequent approval of access, appearance, landscaping, layout and scale of the development as reserved matters.
- (iii) Reserved matters submission to include the provision of a footpath link from Stafford Avenue to the public open space to the rear of the site.
- (iv) Reserved matters condition to include details of any works to stream and its banks
- (v) Reserved matters submission to include details of the retaining wall and the re-grading and landscaping of the adjoining land within the site to soften its appearance.
- (vi) Reserved matter submission addressing landscaping to include replacement tree planting.
- (vii) Submission and approval design measures to ensure acceptable noise levels are achieved for the occupiers of the development.
- (viii) Construction hours.

Councillor Simpson left the room during consideration of the following two items.

7. APPLICATION FOR OTHER DEVELOPMENT - 24 CURZON STREET, BASFORD. MR A STREET. 16/00612/FUL

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

- (i) Approved Plans
- (ii) Materials as specified in the application.

8. **APPLICATION FOR OTHER DEVELOPMENT - 24 CURZON STREET, BASFORD. MR A STREET. 16/00663/FUL**

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

- (i) Approved plans.
- (ii) Materials as specified in the application.

9. **WATLANDS PARK, WOLSTANTON - PROPOSED CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN SUPPLEMENTARY PLANNING DOCUMENT AND 7 PARK AVENUE ARTICLE 4 DIRECTION**

Resolved:

- (i) That a Conservation Area at Watlands Park be agreed as shown on the plan attached as Appendix B to the agenda and arrangements be made to formally designate the Conservation Area as soon as possible
- (ii) That the draft Watlands Park Conservation Area Appraisal and Management Plan Supplementary Planning Document and the publication of the attached Consultation Statement and the SPD for the required final period of representations be agreed;
- (iii) That, subject to no representations being now received seeking changes to the Appraisal and Management Plan SPD, the Planning Committee commend the SPD to Cabinet for adoption, and
- (iv) That the Committee confirms the Article 4 Direction for 7 Park Avenue, Wolstanton

10. **APPEAL DECISIONS - ASHLEY**

Resolved: That the appeal decisions and the information provided in the report in other appeal decisions be noted.

11. **APPEAL DECISION - LAND AT STATION ROAD, ONNELEY.**

Resolved: That the decision be noted.

12. **APPEAL DECISION - RED GATES, HADDON LANE, CHAPEL CHORLTON**

Resolved: That the decision be noted.

13. **APPEAL DECISION - GRINDEY COTTAGE, CHURCH LANE, BETLEY**

Resolved: That the decision be noted.

14. **QUARTERLY REPORT ON OPEN ENFORCEMENT CASES**

Resolved:

- (i) That the report be received
- (ii) That, a further update be provided alongside the next quarterly report on cases where enforcement action has been authorised.

15. **URGENT BUSINESS**

Planning Committee - 13/09/16

There was no Urgent Business.

COUNCILLOR BERT PROCTOR
Chair

Meeting concluded at 8.20 pm

**THE HOLBORN, CASTLE HILL ROAD, NEWCASTLE
MR MEHMET FATIH**

16/00641/COU

The application is for the change of use of this three storey property from an education and cultural centre to an education and cultural centre with overnight stay. The building has in total some 1,000 square metres of floorspace.

The site lies within the Newcastle Town Centre as indicated on the Local Development Framework Proposals Map. In the Town Centre Supplementary Planning Document (SPD) the premises lie within the Northern Quarter and adjacent to but not within one of the Town Centre Housing Areas.

The 13-week determination period for this application expires on 1st November 2016.

RECOMMENDATION

PERMIT subject to conditions relating to the following:

- **Time limit**
- **Approved plans**
- **Provision of a kitchen ventilation system and odour abatement**
- **Internal noise levels**
- **Travel plan**

Reason for Recommendation

The principle of the use is considered acceptable in this sustainable mixed use location and given the current permitted use it is not considered that an objection could be sustained on highway safety or residential amenity grounds. The proposed development therefore accords with the development plan for the locality indicated below and subject to the imposition of the above conditions, there are no material considerations which would justify a refusal of this proposal.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

Planning permission was granted in 2011 for the change of use of this property from offices to an educational and cultural centre (Ref. 11/00426/COU). Permission is now sought to include overnight stay. The applicant's agent states that the aim of the centre is to educate children who are born to Turkish parents about British society and culture so that they can better integrate with society and achieve success in the British education system. The Centre caters for students aged from 8 to 19 but it is the students aged 16 to 19 who would stay overnight. At present most of these older students attend Newcastle College during the day before coming to the Centre and then leaving at 2000 hrs. Instead of leaving the Centre, if permission is granted, they will remain overnight and leave for the College in the morning. It is stated that a maximum of 30 people would occupy the building overnight with a maximum of 3 staff and 27 students.

The property is within the Newcastle Town Centre as indicated on the Local Development Framework Proposals Map and within the area covered by the Town Centre SPD.

The key issues in the determination of this application therefore are:

- The principle of the use
- Impact on highway safety and on-street parking

- Impact on residential amenity

Principle of the Use

The existing use of the property as an educational and cultural centre falls within Class D1 of the Use Classes Order, the “non-residential institution” Use Class. The proposed use which would include overnight accommodation for the students would fall within Use Class C2, “residential institutions”, which includes boarding schools and residential colleges.

The site is within Newcastle town centre, on the outside of the ring road. In the Newcastle Town Centre SPD, the site lies within the Northern Quarter. This is a very mixed use zone and the SPD states that within this area, redevelopment opportunities could lead to a greater mix and intensity of uses. It states that additional residential development could be appropriate here.

The site is in a very sustainable location and users of the centre would have access to services and public transport. Given the varied nature of the uses in this area it is not considered that an objection could be raised to the addition of overnight stay to the current use of the property. Matters of highway safety and residential amenity need to be considered however and these matters will be assessed below.

Highway Safety

The property is served by one vehicular access point off Castle Hill Road and there are 8 parking spaces to the rear of the building. Parking provision and vehicular and pedestrian access to the site would remain unchanged. The applicant’s agent has advised that the catchment area for the centre includes the whole of Staffordshire and parents currently transport their children on a daily basis. They advise that the existing facility does not attract a significant number of vehicular movements as the older pupils attend Newcastle College and walk to the Centre. Providing accommodation for some of the students would reduce the amount of traffic at peak times. A Transport Statement has been submitted which states that there would be no increase in student trip numbers – because the expectation is that the majority of such students will continue to walk Staff numbers are expected to increase by three in order to provide overnight care, but this is not considered to be significant and it is stated that it will not have a material impact on the operational performance or safety of the local highway network. The Statement concludes that overall it is considered that there are no highway or transport reasons that should prevent the granting of planning permission.

The Highway Authority has no objections to the proposal and state that they have taken into account the sustainable location of the site, its current permitted use, and that the proposed overnight accommodation will not result in a net increase in vehicle trips.

The NPPF, at paragraph 32, states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It is likely that the number of vehicle movements to and from the site would either remain about the same or actually reduce.

In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets.

The area is, unsurprisingly given its location, subject to a degree of competition for on-street parking spaces during the daytime. Potentially the additional overnight accommodation use could lead to fewer trips but more parking demand particularly overnight, although given the choice of modes of travel to this area that may not in practice be the case. It has been observed that there are a considerable number of available on-street parking spaces in this area overnight and there is no reason to consider that the use of such spaces would raise any highway safety concerns at all, and as already indicated the Highway Authority have expressed no concerns about the proposal.

For the above reasons it is not considered that an objection could be raised on highway safety grounds.

Residential amenity

One of the core planning principles of the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

It is necessary to consider whether the development would impinge unduly upon levels of residential amenity within neighbouring dwellings and also whether appropriate standards of residential amenity would be provided for the occupiers of the building.

The current planning permission for the use of the building as an educational and cultural centre is subject to a condition which limits the operation of the use to between 0900 hours and 2100 hours Mondays to Fridays, 0900 hours and 1800 hours on Saturdays and between 1000 hours and 1700 hours on Sundays. The use now proposed would entail up to 30 people (3 staff and 27 students) residing at the building on Monday to Thursday nights. The application property is within a mixed commercial and residential area with a hotel and supermarket to the south, and the commercial properties of the town centre across the ring road to the east. The use of the highway to park vehicles is common at this location and there are no particular residential amenity concerns associated with it. Given the surrounding uses and given the current use of the property as an educational and cultural centre, it is not considered that the additional residential use now proposed would have any significant adverse impact on the amenity of the occupiers of the neighbouring dwellings.

A Noise Assessment which accompanies the application concludes that subject to appropriate mitigation measures, acceptable noise levels would be achieved for the future occupiers of the Centre.

The Environmental Health Division has no objections to the proposal subject to the imposition of conditions.

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

APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP3: Spatial Principles of Movement and Access
Policy ASP4: Newcastle Town Centre Area Spatial Policy

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy T16: Development – General Parking Requirements

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Supplementary Planning Documents (SPDs)

Space Around Dwellings SPG (SAD) (July 2004)

Newcastle Town Centre SPD (January 2009)

Relevant Planning History

10/00393/COU Change of use from offices to educational and cultural centre (Use Class D1) – Refused (following failure to complete planning obligations in time)

11/00426/COU Change of use from offices to educational and cultural centre (Use Class D1) (Resubmission of 10/00393/COU) – Approved

Views of Consultees

The **Highway Authority** has no objections. They state that they have taken into account the sustainable location of the site, its current permitted use, and that the proposed overnight accommodation will not result in a net increase in vehicle trips.

The **Environmental Health Division** has no objections subject to conditions regarding the provision of a kitchen ventilation system and odour abatement and internal noise levels.

No comments have been received from the **Crime Prevention Design Advisor**, the Council's **Waste Management Section** and the **Newcastle South LAP**. Given that the period for comments has expired, it must be assumed that they have no comments to make.

Representations

Nil

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Transport Statement
- Noise Assessment

All of these documents are available for inspection at the Guildhall and as associated documents to the application via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00641/cou>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

22nd September 2016

This page is intentionally left blank

This page is intentionally left blank

**LAND AT END OF GATEWAY AVENUE, BALDWIN'S GATE
KIER LIVING LTD**

16/00676/REM

The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 109 dwellings.

This application for the approval of reserved matters follows the granting at appeal of an outline planning permission in January 2015 for up to 113 dwellings on this site (Ref. 13/00426/OUT). Details of access from the highway network were approved as part of the outline consent.

The site, of approximately 5.6 hectares in extent, is within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The 13 week period for this application expires on 8th November 2016.

RECOMMENDATION

PERMIT subject to conditions relating to the following:

- **Link to outline planning permission and conditions**
- **Approved plans**
- **Details of the tie in of access of the site with Gateway Avenue**
- **Integral garages of the Suckley house type to be retained for the parking of vehicles**
- **Materials (facing, roofing and surfacing)**
- **Landscaping conditions**
- **Details of management of community orchard**
- **Upgrading of the surface of the right of way**

Reason for Recommendation

The principle of the use of the site for residential development has been established with the granting of the outline planning permission. It is considered that this revised scheme addresses the reasons for refusal of the previous scheme, Ref. 15/01106/REM, and there are no material considerations which would justify a refusal of this reserved matters submission.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

1.1 The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 109 dwellings. The principle of the residential development of the site has been established by the granting of outline planning permission 13/00426/OUT at appeal in January 2015. Details of access from the highway network were approved as part of the outline consent.

1.2 A similar application for the approval of reserved matters for 113 dwellings was refused earlier this year (Ref. 15/01106/REM). The reasons for refusal were as follows:

1. The layout, density and design of Plots 1 to 10, including the provision of two-storey houses on Plots 5, 6 and 7 and the positioning of the dwelling on Plot 10 forward of No. 11, Hillview Crescent, would be out of keeping with the layout, character and appearance of the adjoining existing development. The proposed development would therefore be contrary to Policy CSP1

of the Core Spatial Strategy, the Urban Design Guidance Supplementary Planning Document (2010) and the aims and objectives of the National Planning Policy Framework (NPPF).

2. The proposed development, by reason of the proximity of the dwellings on Plots 5, 6 and 7 to the rear gardens of the properties on Gateway Avenue and Hillview Crescent, the positioning of the dwelling proposed on Plot 10 forward of No. 11, Hillview Crescent and the proximity of the dwelling on Plot 1 to the lounge window in the side elevation of No. 14, Gateway Avenue, would have cumulatively a material adverse impact on the standard of residential amenity of the occupiers of the existing dwellings, which reflects the generally prevailing high standard of residential amenity experienced within the village of Baldwin's Gate. The proposed development would therefore be contrary to the aims and objectives of the NPPF.
3. The affordable housing units would be insufficiently distributed across the overall site and the development would therefore fail to create a mixed and integrated community. The proposed development would therefore be contrary to Policy CSP6 of the Core Spatial Strategy, the advice in the Council's Affordable Housing Supplementary Planning Document (2009) and the aims and objectives of the NPPF.

1.3 This application seeks to address the above reasons for refusal and the principal changes to the previous scheme are as follows:

- The number of dwellings has been reduced from 113 to 109
- The dwellings in the area of the site at the end of Gateway Avenue and Hillview Crescent have been reduced from 10 to 6 and the properties facing the rear gardens of the existing houses in this location now comprise bungalows
- The dwelling adjacent to No. 11, Hillview Crescent has been set back so that it no longer projects forward of that property
- Greater separation is now proposed between No. 14, Gateway Avenue and Plot 1
- The affordable dwellings have been redistributed across the site

1.4 Although objections have been received from local residents regarding the proposals for foul and surface water discharge and the impact of the proposed development upon the surrounding highway network, these are matters that were considered and accepted as not grounds for refusing either the outline planning permission or the recent reserved matters application, and therefore, cannot be revisited now. Issues of impact on view and impact on property values have also been raised but these are not material planning matters.

1.5 Given the reasons for refusal of the previous reserved matters application, the issues for consideration now are:-

- Is the proposal acceptable in terms of its design and impact on the form and character of the area?
- Would there be any adverse impact on residential amenity?
- Is the siting of the affordable dwellings appropriate?

2. Is the proposal acceptable in terms of its design and impact on the form and character of the area?

2.1 The NPPF at paragraph 56 indicates that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. At paragraph 64 it 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.

2.2 Policy CSP1 of the CSS lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the NPPF.

2.3 Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. R3 of that document states that new development must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

2.4 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 settlement*
- 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*

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.

2.5 R12 of that document states that residential development should be designed to contribute towards improving the character and quality of the area. Proposals will be required to demonstrate the appropriateness of their approach in each case. Development in or on the edge of existing settlements should respond to the established urban or suburban character where this exists already and has a definite value. Where there is no established urban or suburban character, new development should demonstrate that it is creating a new urban character that is appropriate to the area.

2.6 R13 states that the assessment of an appropriate site density must be design-led and should consider massing, height and bulk as well as density. R14 states that developments must provide an appropriate balance of variety and consistency.

2.7 The previous reserved matters scheme (Ref. 15/01106/REM) comprised 113 dwellings. As indicated above one of the reasons for the refusal of that scheme was that the layout, density and design of Plots 1 to 10, including the provision of two-storey houses on Plots 5, 6 and 7 and the positioning of the dwelling on Plot 10 forward of No. 11, Hillview Crescent, would be out of keeping with the layout, character and appearance of the adjoining existing development.

2.8 This revised layout would comprise 109 dwellings and the number of properties in the area of the site at the end of Gateway Avenue and Hillview Crescent has been reduced from 10 to 6. The three 2-storey dwellings previously proposed facing the existing houses have now been omitted. A reduction in the number of dwellings in this area of the site has resulted in a more spacious layout and enabled the bungalows to be re-positioned so that the property adjacent to No. 11, Hillview Crescent no longer projects forward of that property. Your Officer's view is that the revised layout satisfactorily addresses the first reason for refusal of the previous scheme. It is considered that the layout and density of the proposed scheme and the proposed house types reflect local character and that the proposal would be acceptable in terms of its design and impact on the form and character of the area.

3. Would there be any adverse impact on residential amenity?

3.1 As indicated above the second reason for refusal of the previous scheme (Ref. 15/01106/REM) was that the proximity of the dwellings on Plots 5, 6 and 7 to the rear gardens of the properties on Gateway Avenue and Hillview Crescent, the positioning of the dwelling proposed on Plot 10 forward of No. 11, Hillview Crescent and the proximity of the dwelling on Plot 1 to the lounge window in the side elevation of No. 14, Gateway Avenue, would have cumulatively a material adverse impact on the standard of residential amenity of the occupiers of the existing dwellings.

3.2 The reduction in the number of dwellings in the area of the site at the end of Gateway Avenue and Hillview Crescent has allowed for the provision of a greater distance between No. 14, Gateway Avenue and the dwelling on Plot 1. Your Officer's view is that this, along with the omission of the three 2-storey dwellings previously proposed facing the existing houses and the re-positioning of the bungalows, overcomes the second reason for refusal of the previous application and ensures that there would be no adverse impact on residential amenity.

4. Is the siting of the affordable dwellings appropriate?

4.1 The third reason for refusal of the previous application was that the affordable housing units would be insufficiently distributed across the overall site and the development would therefore fail to create a mixed and integrated community.

4.2 In the previous scheme, the affordable units were sited with 11 dwellings grouped in the north-eastern part of the site, 3 dwellings in the centre of the site and 2 dwellings in the south-western area of the site. Based on 16% of the then proposed 113 dwellings, a total of 18 affordable units were proposed.

4.3 Due to the reduction in the number of dwellings proposed overall, 17 affordable dwellings are now proposed across the site. The affordable units have been distributed more evenly across the site with 8 units now proposed in the north-eastern part of the site, 5 dwellings in the centre of the site and 4 dwellings in the south-western area of the site. It is considered that the layout would satisfactorily create a mixed and integrated community and your Officer's view is that the revised scheme satisfactorily addresses the third reason for refusal of the previous scheme.

APPENDIX

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 CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing

Newcastle-under-Lyme Local Plan (NLP) 2011

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 N21: Areas of Landscape Restoration
Policy T16: Development – General Parking Requirements
Policy C4: Open Space in New Housing Areas

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Supplementary Planning Documents (SPDs)

Affordable Housing SPD (2009)

Space Around Dwellings SPG (SAD) (July 2004)

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

Relevant Planning History

13/00426/OUT Outline application for up to 113 no. dwellings and associated works Refused
and subsequent appeal allowed on 12th January 2015

15/01106/REM Application for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 113 dwellings Refused

Views of Consultees

The **Highway Authority** states that the application has changed slightly since the last submission with fewer plots on site. They state that their previous comments still apply which were that they had no objections to the proposal subject to conditions requiring full details of the tie-in of the access of the site with Gateway Avenue and stating that the integral garage of any Unit D shall be retained for the parking of motor vehicles and cycles.

The **Housing Strategy Officer** states that 17 units will be given as affordable housing which is a reduction from the original application which had 18 units. This is on the basis that the total number of units has been reduced to 109 and 16% of that number is 17.44 units which has been rounded down to 17 units. The types of houses that have been given as affordable are 2 and 3 bed houses which is appropriate as there is a greater need for smaller properties rather than larger family houses. It seems that the development is being built in 3 clusters and affordable units are present in each of the clusters. The affordable housing seems sufficiently integrated within the development.

The **Landscape Development Section** has no objections however consideration should be given to introducing some larger growing tree species to the varieties specified in the central areas.

The **Education Authority** notes that a Unilateral Undertaking was submitted at the time of the appeal for 13/00426/OUT and the education contribution amount and terms should be calculated in line with this. Using the information available the education contribution calculates a total of £442,146 plus indexation.

Whitmore Parish Council stands by its original petition that this development is neither justified, needed nor wanted. However, since outline planning permission has already been granted and this application includes all of the changes agreed by Kier to resolve the issues which led to the refusal of 15/01106/REM, the Parish Council wishes to thank Kier for their adjustments and now have no further objection to this application.

Regarding Application 15/01106/REM the following additional consultation responses were received:

The **Environment Agency** had no objections.

Network Rail made the following comments:

- Increased surface runoff will be generated from the development and there is a possibility of it flowing towards the railway cutting. The developer has not proven to Network Rail's satisfaction that their expectations for the drainage on the proposal area can be met. Further clarification is required regarding the swales. Should any issues result from the proposal then the developer will be liable for all mitigation costs.
- Any excavation adjacent to the cutting crest/railway boundary will require supervision by Network Rail to ensure the stability and safety of the railway is not adversely affected.
- The 1.8m high fence proposed by the developer is acceptable to Network Rail.
- It is for the developer and the LPA to ensure mitigation measures and conditions are in place to ensure that noise and vibration from the existing railway are mitigated appropriately prior to construction.
- No trees should be planted next to the boundary with Network Rail land and the operational railway. Only evergreen shrubs should be planted and they should be a minimum distance from the boundary that is equal to their expected mature growth height.
- The developer should submit a Risk Assessment and Method Statement (RAMS) which would consider all works to be undertaken within 10m of the operational railway.

The **Crime Prevention Design Advisor** stated that it is pleasing to note that the applicant has clearly sought to address crime prevention within the design layout. A number of elements are listed that accord with 'Secured by Design' guidance and principles. One aspect of the development that might benefit from some further thought is the boundary treatment where the two ends of Sandyfields will meet the new development. Perhaps providing a formal pedestrian linkage at one of these points might have been beneficial and need not undermine security. In the absence of a link there is a danger that informal paths/desire lines will be created. If there are to be no pedestrian linkages at these points, it may be prudent to reinforce the relevant site boundaries.

Representations

9 letters have been received including a submission from **Baldwin's Gate Action Group**. A summary of the comments made is as follows:

- Kier have gone out of their way to address the concerns of residents and the new layout is much improved
- The revised plan shows a reduction in the number of dwellings and reduced density adjoining Hillview Crescent and Gateway Avenue
- By siting bungalows in the designated zones in accordance with the outline permission and by respecting the building line of Hillview Crescent, the scale of development is proportionate to the existing development and makes a positive contribution to the integration of the existing and new developments
- The separation distance of new dwellings from 14, Gateway Avenue has been increased

- Affordable housing has been further dispersed throughout the site
- The reinstatement of the footpath in the public open space on the north west side of the development and the provision of seats ensures the public accessibility of this space
- The revised plans closely adhere to the conditions imposed by the Planning Inspector when outline planning permission was granted
- Potential drainage problems
- The proposals for foul and surface water discharge are incomplete and as such unsustainable
- Impact on view
- It is pleasing that the applicant has agreed to improve the public right of way behind Hillview by clearing it and laying a better walking surface. However, it is concerning that no lighting is to be provided.
- Road safety concerns
- Affordable housing is not spread evenly throughout the development
- The design is an urban design and not complimentary to the rural environment
- Impact on property values
- Concerns that the application has been validated without review to see if it is compliant with the conditions set out in the outline planning permission

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Planning Statement
- Statement of Community Involvement
- Noise and Vibration Impact Assessment

All of these documents are available for inspection at the Guildhall and as associated documents to the application via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00676/rem>

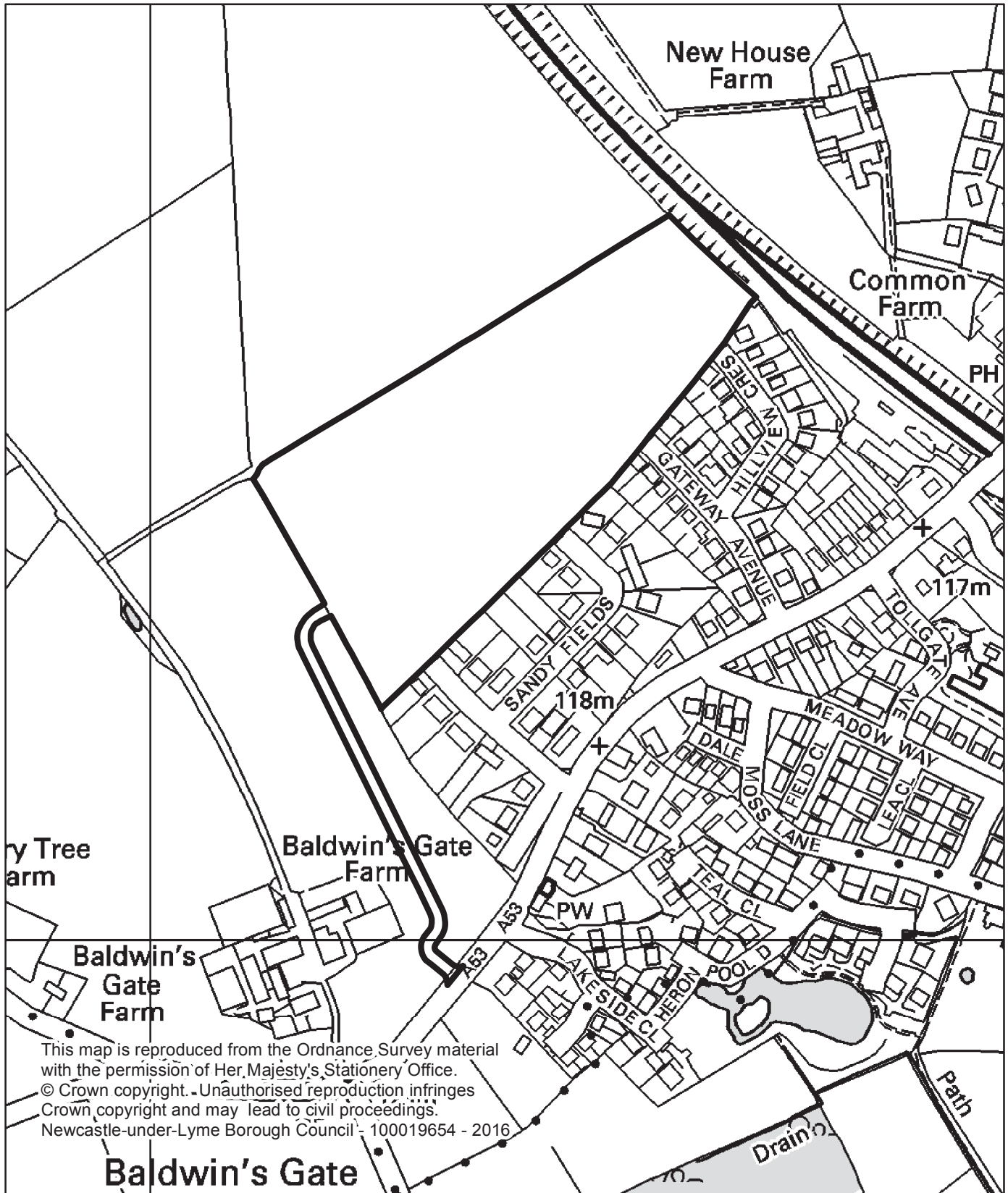
Background Papers

Planning files referred to
 Planning Documents referred to

Date report prepared

20th September 2016

This page is intentionally left blank



This page is intentionally left blank

**UNIT B DALEWOOD ROAD, NEWCASTLE UNDER LYME
CHANCERYGATE (LIVINGSTON) LTD**

16/00732/COU

The application seeks planning permission for the change of use of Unit B, Dalewood Road, Chesterton, from a mobile switching centre to a use falling within Class B1 (c) (light industry), B2 (general industrial) and/or B8 (storage and distribution).

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

The statutory 13 week determination period for the application expires on 12th December 2016

RECOMMENDATION

Subject to no representations/consultation responses being received by 14th October that raises issues that haven't been addressed within this report and which cannot be dealt with by the use of appropriate conditions, the Head of Planning be given the delegated Authority to PERMIT the application subject the following conditions and any further conditions as recommended by consultees:

- 1. Time limit**
- 2. Approved plans**
- 3. Prior approval of plan showing secure weatherproof cycle parking for 8 cycles**
- 4. Prior approval of plan showing 30 car parking spaces to then be marked out prior to occupation**

Reason for recommendation

The principle of the change of use back to the original use of the premises for B1 (c), B2 and/or B8 use is considered acceptable in this established industrial area of Lymedale Business Park, and there would be no significant highway safety or car parking issues generated by the proposed development. The development would comply with the aims and objectives of the National Planning Policy Framework, which seeks to promote and encourage economic development

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

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

KEY ISSUES

Full planning permission is sought for the change of use of Unit B on Dalewood Road, Chesterton, from a mobile switching centre to a mixed use of B1 (c) light industrial, B2 general industrial and B8 storage and distribution. The unit is located on Lymedale Business Park which is an established area of business and industrial development.

The property was built in 2000 for a B1, B2 and B8 use, and then the use was changed that year to a mobile switching centre. It has remained in this use since the year 2000.

The only access into the site is shared with the neighbouring industrial unit (unit C), and there is an existing car parking and servicing area.

The key issues in the determination of the application are:

- The principle of the change of use to the mixed industrial use
- The impact on highway safety and car parking

- Any environmental health and waste storage and collection implications of the proposed development

The principle of the change of use to mixed industrial use

The property was granted a change of use to mobile switching centre from a mixed industrial use soon after it was constructed in the year 2000. The NPPF sets out that the Government is committed to securing economic growth in order to create jobs and prosperity, and that the planning system should do everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth, and significant weight should be given to the need to support economic growth through the planning system.

Policy SP2 of the Core Spatial Strategy supports economic development in existing industrial areas.

The proposal to change the use of the property back to a mixed industrial use is considered to comply with the development plan and the aims and objectives of the National Planning Policy Framework, and there are no policy reasons why the change of use back to its original use should be prevented in principle.

The impact of the development in terms of highway safety and car parking

The application proposes 30 car parking spaces, which includes 2 disabled car parking bays.

The Newcastle under Lyme Local Plan 2011 saved policy T16 indicates that development will not be permitted to provide more parking than the maximum level set out in appendix 3 and that development will not be permitted if significantly less parking than the maximum is provided and this would create or aggravate a local on street parking or traffic problem. Appendix 3 includes parking standards for B1 and B2/B8. The maximum vehicle parking standard for B1 uses is set at the highest level at 1 space per 30m² while the maximum standard for B2/B8 is 1 space per 80 m². Based on these standards, the proposed development should have between 23 and 62 car parking spaces depending on the final occupant use.

The current use of the property is for a mobile switching centre, which is similar to a Class B1(c) use, and as such the maximum level of parking required by policy is 62 spaces. This use was permitted with 25 car parking spaces, less than half of the maximum parking level. The current proposal increases the level of parking provided on site and therefore improves parking provision. Therefore the proposal should be viewed as a highway gain as it could be put to a similar B1 (c) use to the current use but with improved parking provision. The level of proposed car parking would be acceptable for the B2 and B8 uses proposed, which require fewer parking spaces in accordance with policy.

8 cycle spaces are required to be provided for the development, contrary to the 5 spaces which the agent advises will be provided in line with the local plan cycle standards.

Overall, the application is considered acceptable in terms of highway safety and car parking and the development would comply with the aims and objectives of the National Planning Policy Framework.

APPENDIX

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

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

Policy CSP1: Design Quality
Policy CSP2: Historic Environment
Policy ASP5: Newcastle and Kidsgrove Urban Area

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy T16: Development and general car parking requirements
Policy T18: Development and servicing requirements

Other material considerations include:

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

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

Relevant Planning History

00/00128/FUL	Permitted	Erection of an industrial unit for Class B1, B2 and B8 use
00/00380/COU	Permitted	Change of use to mobile switching centre
00/00550/FUL	Permitted	External alterations to existing building
00/00551/FUL	Permitted	Formation of external plant compound

Views of Consultees

The **Highway Authority** has no objections to the application, subject to conditions relating to details of parking provision for 30 spaces to be submitted and approved prior to use of the development, and that notwithstanding the transport statement, plans for the secure weatherproof parking for 8 cycles are submitted to, approved and provided prior to use.

The **Environmental Health** Division has no objections

The **Waste Division** and the **Locality Area Partnership** have also been consulted, and have until 7th October 2106 to comment. Any comments received will be reported.

Representations

No representations have been received to date. Any comments will be reported and taken into consideration.

Applicant/agent's submission

The application is accompanied by a Transport Statement and a covering letter.

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00732/COU>

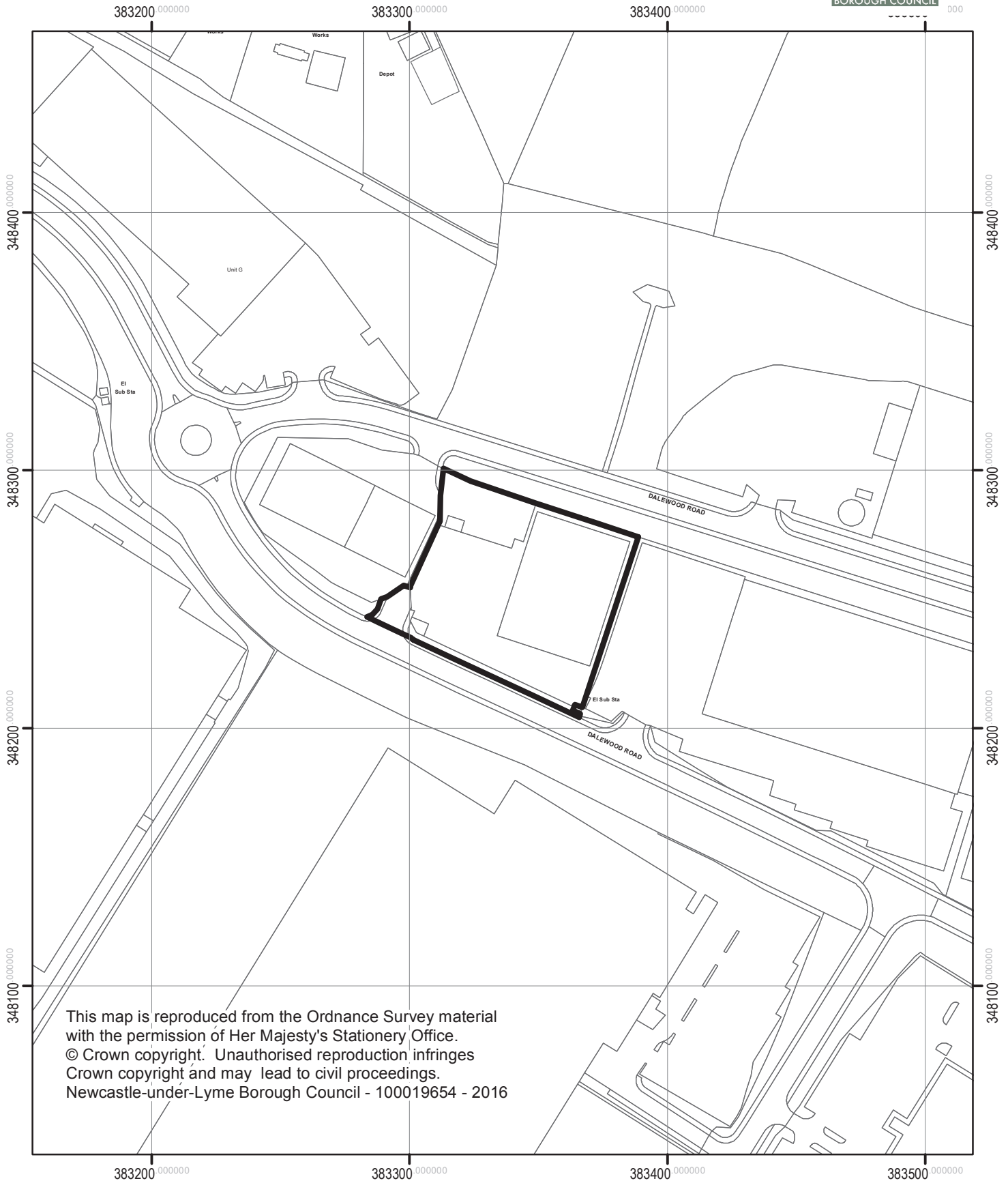
Background Papers
Planning File
Development Plan

Date report prepared

22nd September 2016

Unit B Dalewood Road, Lymedale

16/00732/COU



This page is intentionally left blank

THE COPPICE SCHOOL ABBOTS WAY, WESTLANDS
MR GAVIN LAWRIE

16/00626/FUL

The application is for planning permission for the erection of two extensions and the refurbishment and remodelling of the existing building.

The application site lies within the Newcastle Urban Area on the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expired on the 27th September 2016. The applicant has agreed to extend the statutory determination period to the 14th October 2016.

RECOMMENDATION

(A) That, in accordance with the requirements of the Town and Country Planning (Consultation) (England) Direction 2009, the Secretary of State be advised that Council is minded to PERMIT the application, contrary to the advice of Sport England, subject to conditions relating to the following:-

- 1. Approved drawings.**
- 2. Time Limit.**
- 3. Prior approval of all external facing materials.**
- 4. Prior approval and implementation of a Construction Method Statement.**
- 5. The works are completed in accordance with the arboricultural information required which shall include the wider drainage installation works.**
- 6. The prior approval and implementation of an Arboricultural Method Statement.**
- 7. Trees shown as retained shall be retained and protected throughout the construction period.**
- 8. Prior approval of details of mechanical ventilation.**
- 9. That no community use is granted (for the avoidance of any doubt).**

(B) Subject to the Secretary of State not calling in the application when notified, planning permission be issued subject to the conditions set out at (A).

Reason for Recommendation

The scale and appearance of the sports hall and classroom extensions are not considered to be harmful to the character of the area provided that the external facing materials are agreed by condition. In addition it is also considered that the scale and appearance of the extensions would not adversely affect the living conditions within neighbouring properties. There is to be no community use of the proposed facilities and no increase in staff or pupil numbers and as such it is not anticipated that there would be any significant impact on highway safety arising from the proposal itself. Visually significant boundary trees close to the classroom extension and further afield lining neighbouring boundaries can be adequately safeguarded by planning condition.

As Sport England have objected to the application, in accordance with the requirements of the Town and Country Planning (Consultation) (England) Direction 2009, the Secretary of State must be consulted before planning permission is granted.

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

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

Key Issues

The application is for planning permission to erect two extensions as follows:

- To provide a multifunctional sports hall measuring 19.1 metres by 10.9 metres by 8.8 metres in overall height sited on the south elevation of the building adjoining the sports field.
- To provide additional teaching space measuring 21.5 metres by 33.8 metres in maximum width and length and 4 metres in maximum roof height sited on the east side of the building .

The refurbishment and remodelling of the existing building is also proposed. No increase in staff or pupil numbers would arise from the development.

There are no policy objections, in principle, to extending existing schools and as such it is considered that the key issues in the determination of the application are:-

1. Is the principle of using part of the existing sports field serving the school for a new building acceptable?
2. Is the design of the extensions and the impact on the character of the area acceptable?
3. Can visually significant trees be adequately safeguarded?
4. Is the impact on the living conditions of surrounding occupiers acceptable?
5. Are there any significant highway safety concerns?
6. An overall conclusion of the merits of the proposal.

1. Is the principle of using the sports field acceptable?

The proposed extensions encroach onto the school sports field and this has resulted in an objection from Sport England who advise that the reduction would limit the range of sporting activity for the school by constraining the summer and winter pitch layouts (illustrated by aerial photos which show the extent of the extensions).

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless certain exceptions apply. Sport England advise that the proposal does not meet any of their policy exceptions and no information has been provided to justify the loss.

It is noted that Sport England have incorrectly sited the extension on the aerial photos, and as such they show the extensions encroaching further into the sports field and shows a greater impact and loss than would be the case. It is however, still the case that the extensions will encroach onto the marked football pitch resulting in only a mini soccer pitch for under 7/8 year olds being able to fit onto the space and would also be very close to the running track.

Whilst no supporting information has been provided within the application discussions have taken place with the applicant's agent. The applicant has considered alternative options but it is clear that there is limited space available to extend the school. The only other alternative location for the sports hall space would be to the front of the school in the form of a detached building but that would result in the loss of existing car parking space and loss playground area which would be unacceptable. This alternative location would also involve a more visually dominant scheme.

The current proposal is therefore considered the most feasible option available to the school. Whilst there is an encroachment into the rear sports field area it is of a very marginal nature that would in the loss of about 180m² of the total area of about 4,350 m² (about 0.04% of the total). The vast majority of the sports field would still be able to be used by school pupils although its use for football would be limited.

In addition it is noted that a sports hall, with associated changing rooms and PE stores, are to be provided within one of the proposed extensions, over and above the existing main hall which is to be retained. Therefore much improved indoor sporting facilities are to be provided that would, in the opinion of your Officer, more than compensate for the limited loss of sports field arising from the proposals, as the floor area of the sport hall at 167 m² is similar in scale to the amount of sports field that would be lost and could be used all year round. Regard also needs to be paid to nature of the

school which is for children with disabilities and that the school are of the view that the proposal will allow them to best serve their students.

On balance it is considered that in this case there is justification for the loss of sports field and that the application can be supported.

2. Is the design of the extensions and the impact on the character of the area acceptable?

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

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

The Council's Urban Design Supplementary Planning Document provides further detailed advice as to how design should be assessed to complement to Policy CSP1.

The lower part of the sports hall extension is to be constructed in brown bricks matching the existing school and the upper section is to be clad in smooth dark grey cladding panels. The other extension is to be constructed, predominantly, in brown facing bricks. The scale of the sports hall at around 9 metres is considerably taller than the other existing parts of the school which are around 4-6 metres in height. Given its dimensions the new sports hall will be a prominent addition to the existing school building. The classroom additions proposed which are situated on the eastern boundary of the school shared with the cemetery are not as tall and would not be as prominent in the local area. Those other particular additions and alterations have also been designed replicating the scale and architecture of the existing school building.

Objections from surrounding residents in relation to the height and design of the proposed sports hall have been taken into account. The applicant's agent has submitted that the design and scale of this extension is based on guidance for multifunctional sports spaces appropriate for schools by Sport England. A reduction in the height of the building would reduce the benefits of the sports hall and would conflict with the school's needs.

The view taken is that the extensions proposed are of an appropriate scale and design and whilst the sports hall is to be partially clad in a metal cladding, which is not a material on the existing building, the choice of a dark, recessive grey is appropriate and acceptable. Overall subject to planning condition controlling external facing material use the impact on the character of the area is acceptable.

3. Can visually significant trees be adequately safeguarded?

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

The Landscape Development Section of the Council has no objections to the proposal subject to the imposition of tree protection conditions. It is noted that additional concerns have been raised by residents in relation to the installation of new drainage on surrounding trees but that can also be addressed against by an appropriately worded planning condition.

4. Is the impact on the living conditions of surrounding residents acceptable?

SPG (Space Around Dwelling) provides guidance on privacy, daylight standards and environmental considerations. The sports hall extensions is the closest to the rear of residential properties on Abbots Way but at a distance of approximately 54m or more from the rear elevations of such properties and about 35m or more from the rear boundary it is considered that the extension would not have any adverse impact on daylight or result in an overbearing impact. There are no windows on the elevation facing towards the rear of such properties that would affect amenity.

The relationship between the proposed development and other neighbouring dwellings is therefore compliant with the advice of the SPG. In conclusion there is no significant adverse impact to neighbouring living conditions.

5. Are there any significant highway safety concerns?

Local residents have highlighted existing car parking and vehicle circulation problems along Abbots Way and within the school grounds which coincide with morning and evening drop off and pick up times. The access road leading down to the school from Abbots Way is narrow and the number of vehicles using the entrance alongside pupils requiring assistance when being dropped off results in traffic circulation problems on Abbots Way.

Those local concerns have been taken into account by the Highway Authority. But as no increase in staff or pupil numbers are proposed as a result of the extensions applied for there are no significant highway safety issues arising from the proposal.

Concerns have also been raised in relation to the possibility of the sports hall being used for community evening uses which would have a local highways impact. The school have confirmed the proposal will not be used in that capacity. The Highway Authority has no objections to the proposal and taking into account the specific nature of the development applied for significant highway safety detriment cannot be justified.

6. Overall conclusion

Whilst the encroachment into the existing sports field evident is contrary to the advice of Sport England the level of encroachment is of a very marginal nature leaving the vast majority of the remaining part of the field would be open and usable for a variety of outdoor sporting activity. There are no other remaining concerns to the scheme which cannot be overcome by way of appropriately worded planning conditions. Taking into account the limited encroachment into the sports field evident alongside the particular needs of the school involved it is not considered that permission should be refused.

The Town and Country Planning (Consultation) (England) Direction 2009 sets out applicable criteria and arrangements that must be followed for consulting the Secretary of State once a local planning authority has resolved to grant planning permission for certain types of development that are set out in the Direction. The purpose of the Direction is to give the Secretary of State an opportunity to consider using the power to call in an application and make the decision on the application instead of the local planning authority.

The Planning Authority cannot grant permission on the application until the expiry of 21 days beginning with the date which the Secretary of State notifies the local planning authority that the consultation has been received and he has all the information necessary to consider the matter.

APPENDIX

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

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

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

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy T16: Development – General Parking Requirements
Policy N17: Landscape Character – General Considerations
Policy N12: Development and the Protection of Trees

Other Material Considerations include:

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

Supplementary Planning Guidance/Documents

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

Relevant Planning History

05/01212/CPO	the rear of the site, new classroom extension, staffroom extension and new access ramp at entrance	Permitted	2006
00/00040/CPO	Erection of garage	Permitted	2000
93/00740/CPO	Double classroom mobile unit	Permitted	1993
92/00373/FUL	Extension to classroom	Permitted	1992
N6238	New headmasters office	Permitted	1978
N7477	The erection of a garage	Permitted	1979

Views of Consultees

Sport England objects to the development on the basis it would encroach into an existing sportsfield the reduction of which would limit potential sporting activity to an acceptable degree.

Landscape Development Section comment that they have no objections to the proposal subject to conditions requiring:-

1. The works are completed in accordance with the arboricultural information required.
2. The prior approval and implementation of an Arboricultural Method Statement.
3. Trees shown as retained shall be retained and protected throughout the construction period.

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

The **Highway Authority** has no objections to the development subject to conditions requiring:-

1. The submission, agreement and implementation of a Construction Method Statement.

They also comment that their advice is based on the following:-

- Pupils and staff numbers not increasing.
- The existing car park will not be affected by the development.
- The proposed sports hall is to be used solely by the school and the facility will not be available to be used by the local community.

Representations

The neighbour notification period expires on the 27th September.

A total of 44 objections, including a letter from **Paul Farrelly MP** and from **Cllr Mark Holland**, have been received raising the following concerns:-

- Aggravation of existing traffic problems in the area.
- The visual impact of the development is considered harmful due to its disproportionate height, scale and materials compared to the existing school building.
- The design basis for the proposal is questionable and allows for the height of the sportshall to be reduced.
- The extension works will harm visually important trees in the vicinity.
- The proposal could be used for evening community use which would cause parking and traffic problems and other disruption to local amenity.
- There is already an oversupply of community sports facilities in the Newcastle under Lyme area as evidenced by Sport England.
- The reduction of outdoor sports field space is unacceptable (as supported by Sport England).
- Consultation with residents has not been carried out and a decision should be undertaken with transparency.

Applicant's/Agent's submission

The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00626/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

27th September 2016.

This page is intentionally left blank

MCDONALDS RESTAURANT, DIMSDALE PARADE WEST
MCDONALD'S RESTAURANT'S LTD

16/00726/FUL

The application is for the variation of condition 4 of planning permission 99/00330/FUL to allow revised opening hours for the main restaurant to be from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be 24 hours a day seven days a week (opening hours are currently 0700 and 2300 hours).

The site is located within the urban area of Newcastle as defined by the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors due to resident's concerns.

The 8 week period for the determination of this application expires on the 2nd November 2016.

RECOMMENDATION

Permit with the following conditions;

1. Revised opening/ operating hours for the main restaurant to be from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be 24 hours a day seven days a week,
2. Submission and approval of noise mitigation measures proposed for the ventilation plant,
3. Submission and approval of the updated arrangements to control onsite and offsite litter,
4. All other conditions of the previous permission, application no. 99/00330/FUL, that are still required and relevant.

Reason for Recommendation

The application has demonstrated through the submission of a noise impact assessment that the revised opening/ operating hours of the existing restaurant would not result in a significant harmful impact to the residential amenity and quality of life of neighbouring residents, subject to conditions. The proposal is therefore compliant with the guidance and requirements of the National Planning Policy Framework.

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

Discussions were undertaken with the LPA and other departments of the Council prior to an application being submitted and the information submitted to support the application addresses concerns and the proposed revised hours are acceptable. The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

The application is for the variation of condition 4 of planning permission 99/00330/FUL to allow revised opening hours.

Condition 4 in its current form reads;

"4. The hours of opening of the development hereby permitted shall be restricted to between 0700 and 2300 on any day of the week.

Reason: To protect amenity.”

The applicant now seeks to extend these hours to allow opening hours for the main restaurant to be from 05:00 hours to 00:00 seven days a week and the hours of operation of the drive-thru facility to be 24 hours a day seven days a week.

The drive-thru restaurant is located on a busy roundabout at the junction of Dimsdale Parade West and the A34 with a residential property adjoining the site and further residential properties in the immediate locality.

The Authority, in the determination of this application, cannot reconsider the principle of the use of the building or whether the opening should be restricted more than is currently the case, but it does have the following options:-

- If it considers that any additional hours of opening would result in an adverse impact on the living conditions of nearby residents, the original condition should remain and the application refused,
- If it considers that the condition should be varied then it should approve the application subject to the reworded condition or subject to a different condition as it considers appropriate.

The effect of a grant of permission upon an application to vary a condition is to create a new planning permission. Accordingly, unless there have been other material changes, such a permission should also make reference to the other conditions of the original planning permission where they remain relevant.

Whether the extended opening hours would cause an unacceptable loss of amenity to neighbouring properties from noise and disturbance?

The National Planning Policy Framework seeks to protect living conditions and quality of life of an area (paragraph 123).

The applicant has indicated that the extension of the operating hours for the restaurant will create additional employment positions and additional working hours for existing employees at the site.

The application is supported by a Community Consultation Statement which sets out the community consultation processes that have taken place to engage with the local community, elected members, the police and council officers in order to address any concerns. Meetings and letters have been the main methods of consultation with the community.

The application is also supported by a Noise Impact Assessment (NIA). The NIA outlines that people and vehicle noise related to the drive-thru and car park is likely to cause the lowest observable impact level and would therefore not be harmful if the proposed hours are accepted. However, the NIA assessment shows that extending the running of the extractor plant would cause a significant adverse impact at the surrounding residential properties. Such an impact can, however, be addressed through mitigation which will reduce the plant noise levels sufficiently to allow operation during the extended hours.

An objection has been received from the occupiers of 279 Dimsdale Parade West raising concerns about existing noise levels generated by cars, extractor fans and the general operation of the business that they say will be increased by the proposed additional hours.

The Environmental Health Division (EHD) has raised no objections to the application subject to a noise mitigation condition for the ventilation plant and a condition regarding litter control details to address the extended hours. The noise mitigation condition would help to control the noise levels of the ventilation plant to an acceptable level in terms of the impact on nearby residential properties and in particular the occupiers of no.279 Dimsdale Parade West.

The EHD has indicated that there is the potential for noise disturbance due to larger commercial vehicles parking on the highway as they are unable to gain access to the site due to the current access arrangements. It is considered that a reason for refusal could not be sustained on this ground as it could not be demonstrated that the additional opening hours proposed would materially increase the level of disturbance associated with the parking of such vehicles to the extent that living conditions are reduced to an unacceptable level. It is noted that the EHD do not advise that there is any such grounds to refuse the application.

In terms of any anti-social behaviour EHD have consulted Stoke on Trent City Council regarding similar 24 hour McDonald's sites. Where issues have arisen Stoke have advised that the operators of the sites have responded positively and as any such issues have been suitably addressed and EHD have raised no concerns in this regard. Furthermore, the sale of hot food beyond 11pm and before 5am will require an application to the Borough Council for a premises licence under the Licensing Act 2003. In order for a licence to be granted, the applicant will need to demonstrate that the proposed operating schedule will not harm the four licensing objectives, these being Prevention of Crime and Disorder, Public Safety, Protection of Children from Harm and the Prevention of Public Nuisance. Therefore as matters of anti-social behaviour are suitably addressed by other legislation such an issue should not be a ground to refuse this planning application.

The applicant has submitted further mitigation measures, specifically aimed at addressing issues of anti-social behaviour, which include a noise management plan that sets out additional measures that can be taken such as staff recording incidents, CCTV, increased signage and intercoms decibel levels being turned down. As these are matters that are addressed through the premises license it would not be appropriate to impose a condition that requires compliance with such a plan, but the indications are that the operator of the restaurant would comply the management plan and provide assurance that ant-social behaviour won't be an ongoing issue.

In consideration of the above the proposed hours are unlikely to result in a significant harmful impact to the residential amenity levels and quality of life of neighbouring properties subject to the condition advised. The proposal therefore complies with the guidance and requirements of the NPPF and should be approved.

APPENDIX

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

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

None relevant

Newcastle-under-Lyme Local Plan (NLP) 2011

None relevant

Other Material Considerations

National Planning Policy

National Planning Policy Framework (March 2012) as amended

National Planning Practice Guidance (March 2014) as amended

Planning History of this site

99/00330/FUL Demolition of existing public house, construction of restaurant, revision of parking area, alterations to existing access arrangements and landscaping Permit

09/00212/FUL Refurbishment of restaurant and patio area to include removal of one drive through booth and associated elevational alteration. Installation of customer order display unit and height restrictor Permit

13/00780/FUL The reconfiguration of the drive thru lane with a new island for signage and reconfigured kerb lines including associated works to the site. The relocation of the booth windows to accommodate the new drive thru layout. The reconfiguration of the existing corral and the construction of new remote corral. The installation of 2 x Customer Order Displays (COD) with associated canopies Permit

Views of Consultees

The **Highways Authority** raises no objections

The **Environmental Health Division** raises no objections subject to conditions regarding litter and noise mitigation for ventilation plant. In reaching their recommendation they indicate that they are satisfied with the assessment approach and consider the report to be robust in its assessment findings. It has been identified that additional works will be necessary to reduce noise levels and the target rating level of LAeq, 5min 32dB(A) at 3m from the nearest residential window under normal duty. The required mitigation measures will also reduce noise from this source during the existing operating hours. In terms of vehicle headlights there are currently no controls on the existing store to mitigate this and short of a physical redesign of the site exit there is nothing further that can be done practically to reduce the impact of vehicle headlights. It is reasonably foreseeable that HGV's and large commercial vehicle drivers will use the restaurant during the additional periods when the restaurant is open which could cause disturbance to residents. It is considered that should this be found to be an issue, that the only means of preventing such vehicles from parking is by physical no waiting area, (Double Yellow Lines, bollards or similar). The current litter control arrangements in place as part of the 1999 permission will need updating to reflect the extended opening hours and the consequent increase in trade and potential for litter. The sale of hot food beyond 11pm and before 5am will require an application to the Borough Council for a premises licence under the Licensing Act 2003. Enquiries have been made with Stoke on Trent City Council concerning the 24 hour McDonald's site in Stoke on Trent. The closest sites to residential areas are at Springfield in Trent Vale; Lysander Road, Meir Park and High Street, Sandyford. The advice

received is that the operators of these sites have responded positively to any issues of ASB arising on their premises.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** has been consulted on this application and has until the 29.09.2016 to comment. Any comments received prior to the committee meeting will be reported.

Representations

One letter of objection has been received from the adjoining neighbouring property raising the following matters;

- The daily routes of staff already cause disturbance to residents due to noise,
- The disturbances start as early as 6am and as late as 1am,
- A bedroom window is directly adjacent to where cars park
- Noise disturbance includes banging of car doors, revving engines, and shouting farewells,
- Whilst management have attempted to address issues they don't cease for long,
- The proposed hours would increase noise disturbance throughout the night,
- The noise of the extractor fans are harmful,
- The manager says noiseless extractor fans are not possible,
- Speculative figures are provided in the noise assessment,
- Existing signage directing cars does not work so proposed signage will also not,
- Litter would increase around surrounding streets which is already detrimental, and
- Delivery vehicles cause disturbance and pollution by leaving engines on.

The letter is accompanied by copies of letters sent to the manager of the store which raise issues of disturbance.

Applicants/ Agents submission

The application documents are available at the Guildhall and on the Council's website via the following link. These documents are available for inspection at the Guildhall or via this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00726/FUL>

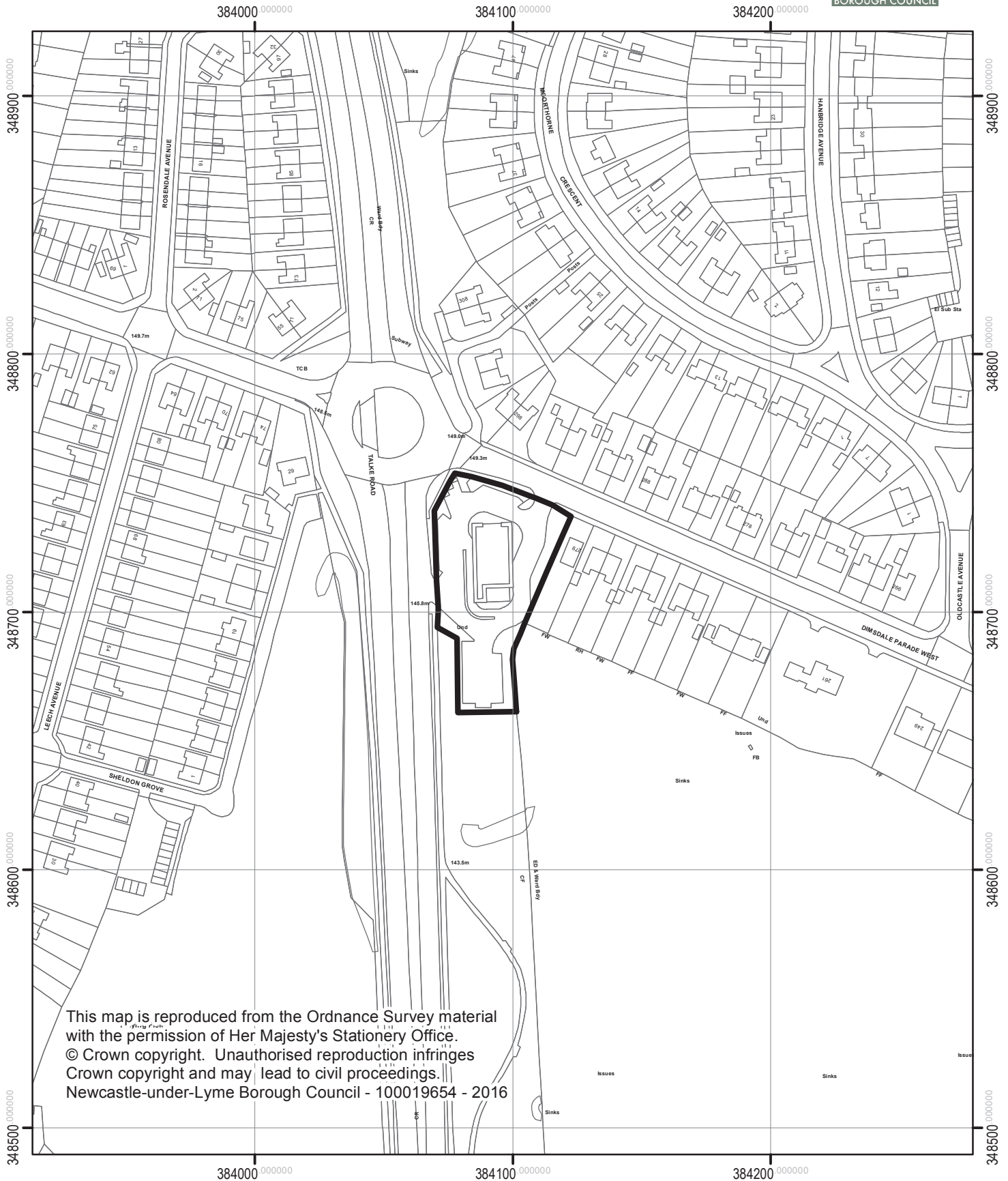
Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

26th September 2016

This page is intentionally left blank



This page is intentionally left blank

**FORMER KNUTTON RECREATION CENTRE, HIGH STREET, KNUTTON
NEWCASTLE BOROUGH COUNCIL**

16/00804/DEM

The application is for a determination as to whether prior approval is required for the method of demolition of the former Knutton Recreation Centre, and any proposed restoration of the site.

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

Unless a decision on this application is communicated to the developer by the 21st October 2016 the development will be able to proceed as proposed. The application must be determined by the Planning Committee by reason of Regulation 10 of the Town and Country Planning General Regulations

RECOMMENDATIONS

- (a) That the Committee determine that PRIOR APPROVAL is REQUIRED**
- (b) Should the decision on (a) be that prior approval is required, the recommendation is to grant that approval, the works having to be carried out in accordance with the approved details, except to the extent that the LPA otherwise agree in writing**

Reason for Recommendation

Given the proximity of a large number of residential properties to the site it is appropriate to conclude that prior approval is required for the method of demolition of the buildings and the restoration of the site. On the basis of the submitted information and subject to consideration of the views of the Environmental Health Division there is no basis to refuse to grant prior approval as the method of demolition and restoration will not give rise to adverse impact on the amenity of residents.

KEY ISSUES

The application is for a determination as to whether prior approval is required for the method of demolition of the former Knutton Recreation Centre and the restoration of the site (of the demolished buildings). These are the only matters to be considered.

Is prior approval is required?

The requirement to apply for such a determination gives the Local Planning Authority the means of regulating the details of demolition in order to minimise its impact on local amenity. If prior approval is not required the development would still have to be carried out in accordance with the submitted details. Guidance previously advised that the Secretaries of State only consider prior approval appropriate where local planning authorities judge that a specific proposal is likely to have a *significant* impact on its surroundings. By reason of the proximity of the buildings to be demolished in this case to a large number of residential properties it is considered that prior approval for the method of demolition and restoration of the site is required in this case.

Should prior approval be granted?

The main issue for consideration in the determination as to whether prior approval should be granted are the amenities of local residents and businesses.

The intention is that the demolition will be undertaken within the site in a safe compound, with the roof being manually removed and using plant for the removal of the external walls. Such a method of demolition will limit the noise arising from the demolition of the buildings and subject to confirmation from the Environmental Health Division it is considered that the impact will not be unacceptable in this regard.

In respect of the restoration of the site, it is intended that the building will be demolished to slab level with demolition material disposed of off-site or crushed and used as hard-core if deemed practical and appropriate. Following demolition the site is to be securely fenced to protect the site prior to any future redevelopment of it. Such a method of restoration is considered acceptable given the site and buildings that are to be demolished. Given that the footplate of the building is surrounded by hard surfacing and the site is set back some considerable distance from the road, it is not considered necessary to require that the foundations of the building be removed, the site covered with topsoil and seeded with grass.

Subject to consideration of the views of the consultee, it is recommended that prior approval should be granted.

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

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

CSP1: Design Quality

Newcastle-under-Lyme Local Plan 2011 (NLP)

None

Other Material Considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Other material considerations include:

Relevant Planning History

None relevant.

Views of Consultees

Any views received from the **Environmental Health Division** will be reported.

Representations

The applicant has displayed a site notice near the site in accordance with the prior notification procedure set out in Class B of Part 11 to Schedule 2 of the Town and Country Planning (General Permitted Development) (Order) 2015. The notice should be in place for not less than 21 days, and this period ends on 15th October 2016.

Applicant/agent's submission

The application documents are available for inspection at the Guildhall as associated documents to the application via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00804/DEM>

Background Papers

Planning File referred to

Planning Documents referred to

Date report prepared

27th September 2016

This page is intentionally left blank

ARTICLE 4 DIRECTION FOR MADELEY AND AUDLEY CONSERVATION AREAS

Report to Planning Committee 11th October 2016

Purpose of the report

To provide the Committee with the opportunity to consider the comments received on the Article 4 Direction for Madeley and Audley Conservation Areas and to decide whether to confirm the Direction.

Recommendation

That the Committee confirms the Article 4 Direction for Madeley and Audley Conservation Areas coming into force on 31st October, as set out in the Direction.

Reasons

The notification period is over and the Council must now decide if the Direction should be confirmed or not.

1.0 Background

- 1.1 The Planning Committee, on 24th May resolved that a non-immediate Article 4 Direction be issued to remove certain permitted development rights with respect to certain residential properties within the Madeley and Audley Conservation Areas including rights associated with works of improvement, extension and alteration of the building, works to boundary walls and the demolition of such walls. This was made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.2 The purpose of this report is to inform members of the representations received, and to enable the Planning Committee to consider whether the Article 4 Direction should be confirmed. The Direction was made and will come into force on 31st October subject to confirmation by the Local Planning Authority.
- 1.3 There are two types of Directions:- non-immediate directions where rights are only withdrawn following consultation and then confirmation, and immediate directions where permitted development rights are withdrawn straight away, but then must be confirmed following local consultation within 6 months. In the case of Madeley and Audley a non-immediate Direction has been progressed which would come into effect if now confirmed. The Council in deciding whether or not to confirm the Direction is required to take into account any representations received during the consultation period.

2.0 Consultation

- 2.1 Representations were invited between 3rd August 2016 and 9th September 2016. In accordance with legislation, the relevant notifications were undertaken.
- 2.2 One representation has been made in respect of the proposed Article 4 Direction from a Madeley resident and is summarised as follows:-

In principle have no objections to the Article 4 Direction; however they are concerned that the special character of the village is being ruined by development of the surrounding countryside and the turning of Madeley into a suburb anyway. Because of this, consider controls over works to historic features within the Conservation Area to be a “rather trifling” matter. Concerned that the Offley Arms is not included within the Direction.

- 2.3 No objections to the Article 4 Direction itself have been raised. Whilst the concerns expressed about the development of greenfield sites around Madeley is noted these sites are beyond the Conservation Area boundary, and therefore not material to the decision about whether or not to confirm the Article 4 Direction in this case. Historic and architectural features are important to the character of the area and incremental changes which might include removal of such features will erode what makes the Conservation Area special. The Offley Arms is not included within the Article 4 Direction it not being a dwellinghouse and the Article 4 Direction in this case being limited to dwellinghouses, and permitted development rights insofar as material alterations and extensions are concerned. There is not considered to be a justification for promoting an Article 4 Direction with respect to the Offley Arms property (and if there were that would need to be the subject of a new proposal with a related consultation opportunity).
- 2.4 The Conservation Advisory Working Party fully supports the confirmation of this Direction for Madeley and Audley.

3.0 **Conclusions**

- 3.1 It is considered, taking into account the representation received, that the Direction, as made, is justified and will hopefully help to retain the special architectural details which contribute to the character of the two areas. An Article 4 Direction only means that a particular development cannot be carried out under permitted development rights and therefore needs a planning application. This gives a Local Planning Authority the opportunity to consider the proposal in more detail. Accordingly it is recommended that the Committee now confirm the Direction.

APPEAL BY JM AND MW HAMPTON AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT (MAXIMUM 138 DWELLINGS), WITH DETAILS OF ACCESS, AT HAMPTON'S SCRAPYARD AND ADJACENT FIELD, KEELE ROAD.

<u>Application Number</u>	14/00948/OUT
<u>Officer Recommendation</u>	Refusal
<u>LPA's Decision</u>	Refused by Planning Committee 28th April 2015
<u>Appeal Decision</u>	Appeal allowed and planning permission granted
<u>Date of Appeal Decision</u>	14th September 2016

The Inspector noting that whilst the planning permission had been refused for 5 reasons, the Council were no longer pursuing reason for refusal 2 concerning the proposed development restricting or constraining activities to be carried out at the adjoining waste management facility, or reason 5 dealing with an obligation for an appropriate contribution towards off-site open space. The Inspector identified that the main issues in this appeal were:

- (a) Whether the occupiers of the proposed development would be likely to experience unacceptable living conditions because of odour emissions from the adjoining Walleys Quarry landfill site.
- (b) The effects of the development on education and affordable housing provision in the area, having regard to the contributions proposed, and to the viability of the proposed development.

In allowing the appeal the Inspector made various observations including as follows:-

Planning Policy

- The Council cannot demonstrate a five-year housing land supply.
- Paragraph 49 of the NPPF provides that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered to be up-to-date if the LPA cannot demonstrate a five-year supply of deliverable sites.
- Therefore, for decision-taking, paragraph 14 of the NPPF provides that the presumption in favour of sustainable development means that permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole (limb 1), or specific NPPF policies indicate the at the development should be restricted (limb 2).

Odour

- Walleys Quarry was granted Interim Development Order permission in November 1997 for minerals workings and the deposit of waste materials subject to conditions which, amongst other things, restrict the materials to be tipped at the site. Such restrictions prevent domestic waste from being imported onto the site.
- The landfill site is also subject to an Environmental Permit (EP) which also specifies the type of waste that can be deposited. The County Council advised that the type of commercial and industrial wastes that can be deposited differ little from domestic waste and that there was no conflict between the planning and permit conditions.
- The EP includes an Odour Management Plan. This identifies three potential sources of odour (tipping of fresh waste, generation of landfill gas and leachate management). Other works could result in significant odour on a temporary basis such as drilling of landfill gas wells, works on landfill gas and leachate infrastructure, and activities requiring excavation into previously deposited waste. The potential odour from

tipping fresh waste would significantly reduce after 1 January 2027, when the extant permission would only permit inert waste to be tipped.

- The landfill site has been the subject of complaints in the past resulting in litigation (which is confidential and not in the public domain). Infrastructure has subsequently been improved for the collection of landfill gas and to deal with leachate, and independent biannual odour reviews have since been conducted. Complaints more recently relate to intermittent events or circumstances that have resulted in periodic complaints in the number of complaints, but measures have been taken to deal with the causes. This indicated to the Inspector that controls can be effective.
- The Inspector was not convinced that the modelling of odour emissions undertaken by the LPA undermined the appellants' view that odour emission amounts to a risk of a minor degree of future harm (due to uncertainties in the assessment of odour impacts from this landfill site and because the operators of the landfill were apparently uncooperative in the modelling exercise).
- The sniff testing undertaken in the vicinity of the landfill on behalf of the appellants are a 'snapshot' and the Inspector considered that they may not be very helpful in assessing odour impacts that are acknowledged to be intermittent.
- The Inspector gave little weight to the appellants' submission about the sale of residential properties in the vicinity of the landfill as it is not possible to determine how the issue of odour emissions from the landfill might have featured amongst the factors that led to the decision to purchase such properties.
- The proximity of existing sensitive receptors to the potential source of odour is a relevant factor in the administration of the EP, which includes an Odour Management Plan. This has important implications for assessing the likely odour impact on any future residential occupiers of the appeal site, especially as the NPPF provides that it should be assumed that the pollution control regime will operate effectively.
- The Odour Management Plan includes an Odour Action Plan (OAP) including measures that are to be implemented should an odour complaint be received. Such measures might be required at times, to safeguard the living conditions of existing nearby residents and would be likely to effectively safeguard the residential amenity of any future occupiers of the appeal site. The Inspector gave more weight to this consideration than to the evidence submitted about the modelling of odour emissions, the past complaint record, and the sniff testing results.
- Given the extant planning and pollution controls for the operation of the landfill, along with the proximity of existing sensitive receptors, the Inspector did not consider that the occupiers of the proposed development would be likely to experience unacceptable living conditions because of odour emissions from the adjoining use. The Inspector found no conflict with paragraph 120 of the NPPF which provides that to prevent unacceptable risks from pollution, planning decisions should ensure that new development is appropriate for its location, taking into account the effects on general amenity and the potential sensitivity of the area or proposed development to adverse effects from pollution.

Viability

- The appellants indicated a willingness to proceed with the development on the basis of a scheme that provided for 20% affordable housing and a residual land value of £743,000. There was disagreement between the parties as to the value of the scrapyard, but this sum was less than any of the estimates for market value of the site. Also in dispute was the sale value to be attributed to the social rented component of the affordable housing, and developer's profit. It was clear at the Inquiry that any outcome of the disputed matters that resulted in a residual land value in excess of £743,000 would be considered to be a viable scheme.
- The Inspector found the Council's evidence on the disputed sale value of the affordable housing element was unconvincing, and preferred the appellant's submission on this point, which was supported by evidence from a local provider (Aspire).
- The Inspector was satisfied on the basis of the evidence that the proposed development would be likely to be unviable with 25% affordable housing and the policy compliant required education contribution of £319,899.

- With regard to what should be allowed for developer's profit, the Inspector agreed with the Council that it is appropriate to consider an apportionment between open market and affordable housing units – reflecting the reality of the reduced risk involved for affordable housing, which should be properly reflected in profit expectations. The evidence indicated the tipping point for viability lies somewhere between 17.5% and 20% for developer's profit on open market units. However, the agreed figures indicate that viability here would be likely be achievable with developer's profit on open market to be achievable with developer's profit for open units just below 20%. This indicated to the Inspector that requiring the full education contribution would be unlikely to render the scheme unviable.
- The appellant sought to argue that following 'Brexit' it is material that the economic future of the UK, and for the Council, is less certain now than it was before that decision. Whilst the Inspector accepted that the current uncertainty is a material consideration, deciding what weight should be given to the current uncertainty would be a highly speculative exercise, and the evidence before the Inspector provided no realistic basis for doing so. This issue was not, therefore, given much weight by the Inspector and it did not alter his views on the likely viability of the scheme.

Other matters

- The scheme would introduce dwellings in an open area on the edge of the town, but would replace a commercial enterprise that by its nature and activity has an adverse effect on this approach to Newcastle. The Inspector considered, overall, that the proposal would have a neutral impact on the character and appearance of the area.
- The Inspector was satisfied that there is scope to design, construct and retain a suitable noise bund that would provide an appropriate standard of residential amenity. Drainage and land contamination, landfill gas migration, and any legacy from previous mining could be addressed by the imposition of suitable planning conditions.

Planning Balance

- The provision of up to 138 dwellings would be a considerable benefit given the current housing land supply position. It would bring with it commensurate economic benefits. The proposal would provide up to seven affordable units less than the policy requirements which is a dis-benefit to be weighed in the balance. The supply of up to 28 affordable units, albeit seriously deficient in policy terms, would nonetheless be considered a benefit.
- The only significant potential harm is from odour from the landfill, but this is controlled under the EP and the tipping of non-inert fresh waste is time limited. The evidence does not indicate that likely odour pollution is a weighty consideration in this case.
- The Inspector did not give much weight to the benefits of consolidating the appellants' business on the Holditch House site, as there was no conclusive evidence that allowing this appeal would secure the completion of that development. Even if it did so, this would be more of a private benefit.
- The benefits of the additional housing in this case would be substantial and would be sufficient to outweigh any likely harm from odour emissions from the adjoining landfill.

Conclusions

- There is conflict with policy as the amount of affordable housing is not met, however the scheme could provide for the required financial contribution towards education, and would not be viable with a policy compliant affordable housing contribution. The conflict with the provision of the development plan is not a consideration that weighs heavily against the proposal.
- Paragraph 14 of the NPPF applies because of the housing land supply shortfall. However any harm by reason of likely odour would fall far short of significantly and demonstrably outweighing the substantial housing benefits of the proposal. The planning balance here does not indicate that the appeal should be refused by reason of limb 1 of paragraph 14. The Council also relies on limb 2 and whilst there is no reason why potential pollution and amenity considerations could not be capable of

being of such substance that development should be restricted the likely harm from pollution in this case falls far below this threshold.

Your Officer's Comments on this appeal decision

In reaching his decision, the Inspector does not conclude that odours won't arise from the adjoining landfill site but he does consider, due to the controls in place in the EP, that the residents of the proposed development would not be likely to experience unacceptable living conditions because of odour emissions. The Council's case clearly fell far short, in the Inspector's opinion, of demonstrating that the harm by reason of odour pollution outweighed what the Inspector saw as the substantial housing benefits of the proposal. In light of the appeal site being directly adjacent to a landfill site which is known to cause odour nuisance, albeit less frequently more recently, this appeal decision nonetheless highlights how difficult it to successfully defend a refusal in circumstances where limb 1 of paragraph 14 of the NPPF apply (i.e. 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).

With regard to the issue of viability, the Council were able to demonstrate that the education contribution could be secured as well as 20% affordable housing against the appellants' case that the scheme would be rendered unviable if anything more than 20% affordable housing was secured i.e. the scheme would be unviable if an education contribution was secured. The education contribution that was successfully secured amounts to £319,899 and will ensure that the impacts of the development on existing educational provision within the area are suitably mitigated.

Recommendation

That the decision be noted.