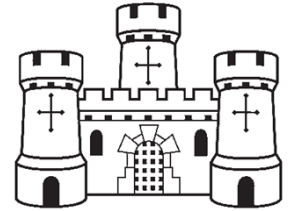


Public Document Pack

Date of meeting Wednesday, 4th January, 2017
Time 6.30 pm
Venue Council Chamber, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG
Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Civic Offices
Merrial Street
Newcastle-under-Lyme
Staffordshire
ST5 2AG

PLEASE NOTE EARLIER START TIME

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 8)
To consider the minutes of the previous meeting(s).
- 4 **Application for Major Development - 2-4 Marsh Parade, Newcastle. Westland Estates Ltd. 16/00630/FUL** (Pages 9 - 20)
- 5 **Application for Major Development - Land at Barrie Gardens, Talke. Aspire Housing. 16/00874/FUL** (Pages 21 - 30)
- 6 **Application for Major Development - Marks and Spencer, Wolstanton Retail Park, Wolstanton. Marks and Spencer PLC. 16/00958/FUL** (Pages 31 - 38)
- 7 **Application for Major Development - Land South of West Avenue, West of Church Street and Congleton Road and North of Linley Road, Butt Lane, Kidsgrove. Revelan Developments Ltd. 12/00127/OUT** (Pages 39 - 44)
- 8 **Application for Major Development - Barnes Hall, Lindsay Hall and Horwood Hall, Keele University. University of Keele. 16/00014FUL, 16/00015/FUL and 16/00016/FUL** (Pages 45 - 48)

- 9 **Application for Minor Development - 5 Boggs Cottages, Keele road, Keele. Mr Thomas. 16/00969/FUL** **(Pages 49 - 58)**
- 10 **Appeal Decision - Builder's Yard, Park Road, Silverdale, Newcastle** **(Pages 59 - 60)**
- 11 **Quarterly Report on extensions to time periods within which obligations under Section 106 can be entered into** **(Pages 61 - 64)**
- 12 **URGENT BUSINESS**

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 (Vice-Chair), Heesom, Mancey, Northcott, Panter, Pickup, Proctor (Chair), Reddish, Simpson, Snell, 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, 6th December, 2016
Time of Commencement: MeetingActualStartTime

Present:- Councillor Bert Proctor – in the Chair

Councillors Burgess, Fear, S Hambleton, Heesom, Holland, Panter, Reddish, Snell, Spence, Sweeney, G Williams and J Williams

Officers Guy Benson, Geoff Durham, Rachel Killeen and Peter Stepien

1. APOLOGIES

Apologies were received from Councillors' Mancey, Northcott, Pickup and Turner.

2. DECLARATIONS OF INTEREST

Councillor Mrs Hambleton declared an interest in application 16/00724/FUL as an Aspire Board Member.

Councillor Snell declared an interest in 16/00859/FUL. The applicant is his wife.

Both Members vacated the Chamber during consideration of the respective items.

3. MINUTES OF PREVIOUS MEETING(S)

Resolved: That, subject to the following amendment being made, the minutes of the meeting held on 8 November, 2016 be agreed as a correct record:

Minute 9 - Application 16/00626/FUL

Additional condition agreed at the meeting but omitted from the minutes:

- (x) In addition to the restrictions imposed in condition (ix), during term time only, no construction traffic shall enter or leave the site between the hours of 08.15 and 09.15 and half an hour before, and between 14.45 hours and 15.45 hours on Monday to Friday.

4. APPLICATION FOR MAJOR DEVELOPMENT - SITE OF FORMER WOODSHUTTS INN, LOWER ASH ROAD, KIDSGROVE. NOVUS PROPERTY SOLUTIONS. 16/00724/FUL

Resolved: That the variation of condition 24 of 16/00326/FUL be permitted so that it reads as follows:

No development shall commence until a scheme for the provision of affordable housing as part of the development has been secured. The affordable housing shall be provided in accordance with the approved scheme, the scheme shall include:

- The provision of 7 of the dwellings as shared ownership tenure residential units and 15 of the dwellings as affordable rent tenure residential units.
- The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy will be enforced.

and subject to the imposition of all other conditions attached to planning permission 14/00767/FUL, unless they have already been discharged by the date of issue of the permission in which case the approved details will be referred to.

5. APPLICATION FOR MAJOR DEVELOPMENT - FORMER MAXIMS, STANIER STREET, NEWCASTLE. PRIME UK DEVELOPMENTS LTD. 16/00877/FUL AND 16/00876/LBC

Resolved:

(A) With respect to the application for listed building consent 16/00876/LBC

That the application be permitted subject to the undermentioned conditions:

- (i) Time limit for commencement of development
- (ii) Prior to commencement of the permitted reconstruction a sample of brickwork for the wall to be provided for approval
- (iii) Demolition and reconstruction to be implemented in accordance with the submitted method statement.
- (iv) Building recording of the structure prior to its demolition.

(B) With respect to the application for planning permission 16/00877/FUL

That the application be permitted subject to the undermentioned conditions:

- (i) New approved plans and supporting information.
- (ii) All other conditions of the previous permission, application no. 15/00498/FUL, that are still required and relevant.

6. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF DEANS LANE AND MOSS GROVE, RED STREET, CHESTERTON. NEWCASTLE BOROUGH COUNCIL. 16/00902/DEEM4

Resolved:

- (A) That, subject to (a) the landowner in question first entering by 24th January 2017 into a section 106 obligation which would secure the provision and maintenance of acceptable visibility splays on third party land and (b) a further obligation being completed, again by 24th January 2017, securing 25% Affordable Housing onsite, a financial contribution of £147,150 (index linked) towards the improvement of the equipment on Red Street Open Space and/or Barbridge Road Play Area and £99,732 (index linked) towards secondary education places at Chesterton Community Sports College, or such amounts as reflect the eventual development,

The application be approved subject to the undermentioned conditions:

- (i) Condition to reflect outline nature of application,
 - (ii) Time limit for submission of any approval of reserved matters and for commencement
 - (iii) Approved plans and documents,
 - (iv) Restriction of the scale of the dwellings to two storeys in height,
 - (v) Reserved matters application to include a detailed surface water drainage scheme (SuDS),
 - (vi) Reserved matters application to include a footpath link on the eastern boundary
 - (vii) Visibility splays of 2.4mx56m from Moss Grove onto Dean Lane and kept free from obstruction,
 - (viii) The means of construction of the roads/paths within the development
 - (ix) Submission and approval of a Highways Construction Method Statement,
 - (x) Design measures to control internal and external noise levels,
 - (xi) Construction hours,
 - (xii) Submission and approval of a Construction Environmental Management Plan,
 - (xiii) Recyclable materials and refuse storage details,
 - (xiv) Tree protection for all category B trees,
 - (xv) Submission and approval Method Statement for the treatment and future management of boundary hedgerows,
 - (xvi) Any reserved matter application should include biodiversity improvements,
 - (xvii) Recommendations of the ecological report should be adhered to,
 - (xviii) Site investigation works outlined in the Coal Mining Risk Assessment Report,
 - (xix) Coal Mining remedial works as required.
- (B) That, should the matters referred to in A(a) and (b) above not be secured by the 24th January 2017, then the Head of Planning given delegated authority if (a) is not secured to refuse the application on the grounds that the development would not have satisfactory visibility splays at the Moss Grove/Deans Lane junction and accordingly would be contrary to the interests of highway safety, and (if the matters referred to in A(b) have not been secured by that same date) on the grounds that the development would also fail to secure an acceptable provision of adequately maintained public open space, appropriate provision for

required education facilities and an appropriate level of affordable housing or, if he considers it appropriate, to extend the time period within which the obligations referred to above can be secured.

7. APPLICATION FOR OTHER DEVELOPMENT - LAND ADJACENT 168 KNUTTON LANE, KNUTTON. MR I SIDDIQUI. 16/00838/COU

Resolved: That the application be permitted subject to the undermentioned condition: relating to the following matter:

Landscaping to be carried to soften the appearance of the fence in accordance with an approved scheme and within 3 months of the date of the decision.

8. APPLICATION FOR OTHER DEVELOPMENT - 29 VALE STREET, SILVERDALE. MR G & MRS S SNELL. 16/00859/FUL

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

- (i) Time limit
- (ii) Approved plans
- (iii) Materials to be as specified – extensions to be rendered and with plain clay tiles to match the existing property.

9. APPLICATION FOR OTHER DEVELOPMENT - 12 THE BRACKENS, WESTBURY PARK, CLAYTON. MR D COPESTAKE. 16/00904/FUL

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

- (i) Time limit
- (ii) Plans
- (iii) Materials

10. MID-YEAR DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2016/2017

Consideration was given to a report providing members with a mid-year update on the performance recorded for Development Management between 1 April and 30 September, 2016.

Members queried the reference to a backlog indicated under item 2 on page 53 of the agenda and what was being done with regard to this.

The Council's Head of Planning and Development, Mr Guy Benson stated that this issue was due to the absence of a Planning Officer. The matter was currently being investigated to seek solutions.

- Resolved:**
- (i) That the report be received.
 - (ii) That the Head of Planning with the Development Management Team Leader seeks to maintain performance of the Development Management team

where satisfactory and improve the service provided where our level of performance falls significantly below the targets set out in the Planning Service Plan for 2016/17.

- (iii) That the next 'Development Management Performance Report' be submitted to Committee around May 2017 reporting on performance for the complete year 2016/17.

11. AFFORDABLE HOUSING - POLICY ON APPLICATION OF OFF SITE FINANCIAL CONTRIBUTIONS

Consideration was given to a report which had been requested by Members at the Planning Committee held on 16 August, 2016.

The report was in respect of the policy that is within the affordable Housing Supplementary Planning Document as to where, within the district, financial contributions from development towards affordable housing can be spent.

Officers were thanked for bringing the report.

- Resolved:**
- (i) That it be not resolved that such commuted sums should have to be spent in areas where they have been generated from
 - (ii) That officers, upon the receipt of such sums consult with the relevant Parish Council or Parish Councils on whether or not there are opportunities to expend such sums within the areas of those Councils

12. TREE PRESERVATION ORDER TPO 176. LAND AT WREKIN, MUCKLESTONE WOOD LANE, LOGGERHEADS.

Resolved: That Tree Preservation Order No.176 (2016), land at Wrekin, Mucklestone Wood Lane, Loggerheads, confirmed as made and the landowner of the site to be informed accordingly.

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

Resolved: That the information be received.

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 monitoring report on cases where enforcement action has been authorised

15. APPEAL DECISION - 134 CHATTERLEY DRIVE, KIDSGROVE. 16/00241/FUL

Resolved: That the decision be noted.

Planning Committee - 06/12/16

16. APPEAL DECISION - 133 SMITHY LANE, KNIGHTON. 16/00312/FUL

Resolved: That the decision be noted.

**17. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT)
-EBENEZER HOUSE, RYECROFT, NEWCASTLE. 16/17002/HBG**

Resolved: Grant of £725 for the replacement window approved subject to the appropriate standard conditions.

18. URGENT BUSINESS

There was no Urgent Business.

**COUNCILLOR BERT PROCTOR
Chair**

Meeting concluded at Time Not Specified

2 – 4 MARSH PARADE, NEWCASTLE UNDER LYME
WESTLANDS ESTATES LIMITED (GAVIN DONLON)

16/00630/FUL

The application seeks full planning permission for the demolition of existing buildings and the replacement with a four storey apartment block containing 27 one bedroom apartments.

The site lies within the urban area close to Newcastle town centre. The site is adjacent to but not within the Stubbs Walk conservation area, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.10 hectares

A tree adjacent to the site is covered by Tree Preservation Order No.16.

The statutory 13 week determination period for the application expired on the 9th December 2016 and the applicant has agreed to extend the statutory determination period until the 10th February 2017.

RECOMMENDATION

Refuse for the following reasons:-

1. The proposed development by virtue of its design, layout and proximity next to a visually significant and protected tree would result in adverse harm to and potential loss of the tree which would be detrimental to the character of the area, in particular the Georgian street scene and the setting of the Stubbs Walk Conservation Area, contrary to policies N12, B14 and B15 of the Local Plan and CSP2 of the Core Spatial Strategy.
2. Without a planning obligation which secures a mechanism to secure a financial viability reappraisal there would not be an appropriate mechanism to allow for improved financial circumstances to be taken into account (in the event of the development not promptly proceeding), and in such circumstances the potential provision of policy compliant contributions towards affordable housing and public open space.

Reason for recommendation

The proposed development would be likely result in the loss of a visually significant and protected tree. The loss of this tree would be harmful to the character and appearance of the area, in particular the Georgian streetscene and the setting of the Stubbs Walk Conservation Area. A planning obligation has also not been tabled providing for a financial viability reappraisal mechanism and without this appropriate mechanism there would be no potential provision of policy compliant contributions towards affordable housing and public open space, should financial circumstances change. The adverse impact on the tree and the Conservation Area identified significantly and demonstrably outweigh the benefits of the development – in particular the provision of housing in the context of the Council's inability to demonstrate a 5 year supply of deliverable housing sites, in a sustainable urban location and the development of a vacant site on the edge of the Conservation Area.

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

Officers have given the applicant opportunities to submit information during the consideration of the application and information has been received. However, despite attempts to address the concerns and objections the fundamental objection regarding the impact on a tree still remains and the application cannot be supported.

KEY ISSUES

1.1 The application seeks full planning permission for the demolition of existing buildings and the replacement with a four storey apartment block containing 27 one bedroom apartments.

1.2 The site lies within the urban area close to Newcastle town centre and adjacent to but not within the Stubbs Walk Conservation Area, as indicated on the Local Development Framework Proposals Map. There are also two Grade II Listed Buildings opposite the site, 21 Marsh Parade and 23-25 Marsh Parade. A plan indicating these features will be available to be viewed at the Committee meeting.

1.3 There are visually significant trees within the highway verge and adjacent to the site, one of which is covered by a Tree Preservation Order.

1.4 The application has been supported by an ecology report and conditions to mitigate any impact on bats could be secured.

1.5 The main issues to consider in this proposal, therefore, are as follows;

- The principle of residential development
- The design and impact on the adjacent conservation area and listed buildings?
- Car parking and highway safety
- Impact on protected and visually significant trees
- Impact on residential amenity levels of future occupiers
- Planning obligation considerations
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

2.0 The principle of residential development

2.1. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

2.2 Saved Newcastle Local Plan (NLP) policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The CSS goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 The land is located within the major urban area in close proximity to Newcastle town centre. The site is occupied by a two storey red brick building that has fallen into a state of disrepair. There is also a two storey and single storey outbuildings to the rear of the site which also appear to be in a state of disrepair.

2.5 The site meets the definition of previously developed land and is located within a highly sustainable area by virtue of its proximity to the town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also designated within the Town Centre SPD as being within the 'Live Work Office Quarter' which is recognised as a missed use area that will continue to develop in this manner with the SPD stating that "...where the main focus is offices, with any housing development likely to be marketed for those who wish to live within a bustling business community. Residential opportunities could be created by "living over the shop" and in new developments."

2.6 The proposed development complies with local and national planning policy guidance and it is considered suitable for residential development. The construction of 27 one bedroom dwellings would contribute to the Councils housing supply and the principle of residential development on this site is considered acceptable.

3.0 The design and impact on the adjacent Conservation Area and Listed Buildings?

3.1 The application site is adjacent to the Stubbs Walk Conservation Area and NLP policy B14 states that “In determining applications for building in a Conservation Area, special regard will be paid to the acceptability or otherwise of its form, scale and design when related to the character of its setting, including, particularly, the buildings and open spaces in the vicinity. Because of this and to allow the impact of a proposal on the special architectural and historic character and appearance of the Conservation Area to be evaluated, outline planning permission will be resisted for proposals in a Conservation Area. Exceptionally, where proposed development immediately adjacent to the Conservation Area would be likely to affect the Conservation Area adversely, similar constraints may be applied.”

3.2 The site is also adjacent to two Grade II Listed Buildings and NLP policy B5 states that “The Council will resist development proposals that would adversely affect the setting of a Listed Building.”

3.3 The NPPF provides more general guidance on the design of development proposals. It indicates at paragraph 56 that great importance should be attached to design which is a key aspect of sustainable development that should contribute positively to making places better for people. It further states at paragraph 64 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.

3.4 In order to allow the proposed development to proceed the existing buildings on the site will have to be demolished. Whilst these buildings are not listed, and they have, over the years, fallen into a state of disrepair, they do have some visual merit within the street scene due to their striking red brick appearance and location on the site frontage. The demolition of these buildings would allow the site to be developed and the retention of the buildings is not justified by virtue of them having fallen into a state of disrepair and the negative impact that the site currently has on the character of the area due to its overgrown and derelict appearance. However, even if a different view was reached the applicant could demolish the buildings by exercising their permitted development rights with only the details of the means of demolition and details for the restoration of the site being the subject of the prior approval of the LPA.

3.5 The proposed development would bring the site back into use with the construction of a single four storey building to accommodate 27 one bedroom flats/ apartments. The Stubbs Walk CAAMP identifies that Stubbs Walk is relatively built up on the periphery around the junction of West Street and North Street, Marsh Parade and Mount Pleasant. It further states that the landscape value of the trees and shrubs within Stubbs Walk is particularly high and provides a setting for the Conservation Area. Whilst Marsh Parade is not specifically referred to as being of high landscape value it acts as a gateway into Stubbs Walk and the mature trees are similarly of value to the streetscene.

3.6 The applicant indicates within their submission that the proposed development would complement the scale of the existing Georgian properties on Marsh Parade, with materials and fenestration being appropriate for the setting and locality. They consider that the development will create a building that will add value to the site and sit comfortably with the neighbouring buildings. The submitted heritage statement (HS) concludes that the harm to the Stubbs Walk Conservation Area and the setting of the adjacent listed buildings would be a neutral or slight adverse impact. The HS also identifies that cartographic maps show potential below-ground non-designated heritage assets in the form of a junction canal, a railway siding, a well, and a building. However, the impact would be neutral or slight adverse. A condition could be imposed which secures heritage site investigation and recording.

3.7 The Urban Vision Design Review Panel reviewed the scheme prior to the application submission and were generally supportive of the “the simple, contemporary, well-detailed, rhythmic approach to the new development”. The scale and proportion of the block was also considered to be in keeping with the character of the local area. A number of points were raised by the Panel which were not

directly related to the design and appearance of the scheme but the applicant has sought to address these matters within the submission.

3.8 The Conservation Officer and the Conservation Advisory Working Party (CAWP) have also advised that the general massing and proportions of the proposal is acceptable. However, some concerns have been expressed about the materials and they consider that it is essential that the specification is of a high standard. This has resulted in slight amendments to the scheme and further information being submitted which provides clarification on the specification of design details. In particular the monopitch roof will have a simple parapet detail which will be capped with a string course and 50mm aluminium trim which will have a slight fall towards the roof to avoid staining the fenestration. The windows would have a 50mm reveal and the front wall will be constructed from the same brick as the main facing brick and have metal railings sat on the top of it between pillars set apart at intervals.

3.9 The applicant has demonstrated that the design and appearance of the proposed building would be of a high standard, and conditions could secure the submission of sample materials for approval. The proposal would bring back into use a vacant and untidy site on the edge of the Conservation Area and any minimal harm caused to setting of the adjacent heritage assets would be outweighed by the benefits of the scheme.

3.10 There are however mature trees that align Marsh Parade which complement the character of the Georgian street scene. NLP Policies N12 and B15 seek to protect visually significant and protected trees, particularly in Conservation Areas and their setting. The impact of the development on trees will be discussed below.

4.0 Impact on protected and visually significant trees

4.1 NLP 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 the tree loss and the loss cannot be avoided by appropriate siting or design.

4.2 As already indicated the site is adjacent to the Stubbs Walk Conservation Area and NLP policy B15 indicates that trees and landscape features which contribute to the character and appearance and are a part of the setting of a Conservation Area will be retained. Where consent is given to remove protected trees conditions will be imposed to require trees of the appropriate species and size to be planted and replaced if they die within 5 years.

4.3 The application is supported by a tree survey which identifies that there are two trees on or adjacent to the application site. The tree to the front of the site is outside of the application site and the applicant's control. This tree is a lime tree which is covered by tree preservation order T16 and is classified as a category A tree – "trees of high value including those that are particularly good examples of their species and/or those that have visual importance or significant conservation or other value." The tree towards the rear of the site is a sycamore tree which is a visually significant tree and was originally classified in the submitted tree survey as a category B tree – "trees of moderate value". It was stated within the submitted tree report that both trees would be retained as part of the development but the building works would be close to or within the root protection area of these trees.

4.4 The Council's Landscape Development Section (LDS) expressed concerns about the adverse impact and potential loss of both trees. The applicant subsequently submitted amended/ additional information which sought to address the objections and reclassified both trees. In particular the sycamore tree was downgraded to a category C being unsuitable for long term retention due to structural defects. The LDS now accept this following their own more detailed inspection.

4.5 The TPO'd Lime tree is still proposed to be retained but there would be significant excavation works within the root protection area by virtue of the location of the proposed car parking spaces and the need to install a dropped crossing. The extent of hard surfacing for the spaces would also be a concern. There is also no information about a proposed retaining wall and a step also within the RPA which will also require excavation works. The LDS object to the works within the RPA of this tree. Therefore, despite attempts to address concerns, the applicant has failed to demonstrate that the

proposals would not result in the loss of the visually significant and protected Lime tree on the site frontage. The loss of this tree would be detrimental to the character of the area, in particular the Georgian street scene, which would be contrary to NLP policies B14, B15 and N12. It is not considered that replacement planting could mitigate this loss.

5.0 Impact on residential amenity levels of future occupiers

5.1 The Environmental Health Division (EHD) has indicated that the noise climate in this area is dominated by road traffic throughout the day and also entertainment and patron noise from the Rigger Public House which they say is directly opposite the application site. The Rigger operates as a live music venue up until 02.00hrs. The EHD have specifically requested an assessment of entertainment noise to include the assessment of low frequency bass beat and despite further information being received they still maintain their objections.

5.2 The application site is not directly opposite the Rigger but it is within close proximity and it is clear that some form of acoustic measures, particularly on the front elevation, are still required to satisfy internal noise levels for future occupiers. The EHD have been in regular contact with the applicant's noise consultant but satisfactory design measures have still not been achieved. This matter is ongoing and officers are seeking further advice on the matter from EHD. Further comments and advice will be provided in a supplementary report prior to the committee.

6.0 Car parking and highway safety

6.1 The access to the site would be taken off Marsh Parade via an access point that passes through the front elevation of building to the rear which provides off street car parking for 7 vehicles. There are a further 4 off street car parking spaces proposed at the front of the building also.

6.2 NLP policy T16 states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem. The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. 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.

6.3 Based on the maximum parking standards in the Local Plan a development of 27 one bedroom flats/apartments would require a maximum of 36 car parking spaces. Therefore the proposal would provide a shortfall of 25 spaces against that maximum.

6.4 The application is supported by a transport statement (TS) which identifies that car parking provision is below the standards of policy T16 but also concludes that the provision is acceptable for a development of the scale and location proposed. Cycle parking is also proposed. The TS also indicates that there are car parking restrictions on surrounding roads and there are public car parks in close proximity to the site and regular bus services that run along Brunswick Street. The site is also within walking distance of the town centre. Furthermore the TS submits that the higher the percentage of 1 bedroom units within a development the lower the parking demand becomes.

6.5 The Highways Authority has raised no objections subject to conditions and in consideration of the information and evidence provided within the TS and the highly sustainable location of the site, your officers accept that the level of car parking is satisfactory and would not exacerbate on street car parking problems within the immediate vicinity of the site.

7.0 Planning obligation considerations

7.1 The Landscape Development Section (LDS) have indicated that the proposed development would require a contribution of approximately £65,000 to be secured for Public Open Space (POS) improvement and maintenance. The sum, it is proposed would be spent on improvements to Stubbs Walk Open Space which is 110 meters from the site. An education contribution is not requested because the Education Authority has indicated that it is not their current policy to request a contribution from developments purely consisting of 1 or 2 bed apartments.

7.2 There is a local policy requirement for 25% affordable housing to be provided on-site which would amount to 7 of the units.

7.3 The applicant has stated within their submission that the scheme cannot support the requested policy compliant contributions towards affordable housing and POS and the District Valuer's advice has been obtained by the Authority This concludes that the scheme is not viable with policy compliant financial contributions, and when asked. to confirm what, if any, financial contributions the scheme could support, the DV has confirmed that the scheme would be unviable if any level of contribution or affordable housing was secured.

7.4 Whilst this development cannot support policy compliant contributions there is the undoubted contribution that the development would make to housing availability which is acknowledged to be in short supply. The site has also been vacant for a number of years which does little to enhance the appearance of the area and its redevelopment will be beneficial to the area.

7.5 The application will still need to be the subject of a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months of the date of any decision on the application, and then payment of an appropriate contribution/ provision of on site affordable housing, if the site were to found capable of financially supporting these features. It is suggested that in such an event any such residual land value should be proportionally allocated.. No unilateral undertaking providing such a mechanism has been submitted to date.

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

8.1 As indicated above the proposal is considered to be contrary to development plan policies which seek to protect the loss of visually significant trees, particularly when it would harm the setting of a Conservation Area. As discussed the mature and protected tree on the side boundary, towards the frontage of the site, is a prominent tree within the streetscene and contributes significantly to the character of the area. Its loss would be wholly detrimental.

8.2 As to the benefits (of the development) the proposal would help contribute in addressing the lack of a five year housing supply within a sustainable urban area. It would also redevelop a site that has been left vacant for a number of years. However, taking all of the above into account it is the view of your officers that the adverse impacts of this development do significantly and demonstrably outweigh the benefits of the development, and accordingly the proposal does not represent a sustainable form of development.

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 SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP2:	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy B14:	Development in or Adjoining the Boundary of Conservation Areas
Policy B15:	Trees and Landscape in Conservation Area
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas

Other material considerations include:

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

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

Supplementary Planning Guidance/Documents

Developer Contributions Supplementary Planning Document (September 2007)

Affordable Housing Supplementary Planning Document (2009)

Space Around Dwellings SPG (SAD) (July 2004)

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

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

Newcastle Town Centre Supplementary Planning Document (2009)

Stubbs Walk Conservation Area Appraisal and Management Plan Supplementary Planning Document (2016)_

Relevant Planning History

N12592 (1983) Change of use to offices Permitted

08/00882/FUL Demolition of existing buildings and erection of a single storey building to be used as a place of worship with associated parking Refused

Views of Consultees

The **Environment Agency** raises no objections

The **Education Authority** indicates that this development falls within the catchments of Friarswood Primary School, Hassell Community Primary School, St. Giles and St. George's CofE Academy and Clayton Hall Academy. The development is scheduled to provide 27 apartments. However, no education contribution will be requested as it is not their current policy to request a contribution from developments purely consisting of 1 or 2 bed apartments.

The **Highways Authority** raises no objections subject to conditions regarding access, parking, servicing and turning being provided, submission and approval of a construction management statement, visibility splays and the existing access being permanently closed off.

The **Environmental Health Division** objects on the grounds of harm to future occupiers of the flats from noise, or the future operation of the Rigger Public House being at significant risk for complaint from the occupants of some of the flats.

The **Landscape Development Section** objects to the application on the grounds that the proposed development would result in a negative harm and potential loss to a visually significant and protected Lime tree by virtue of excavation works being required within the root protection area.

Severn Trent Water raises no objections subject to a conditions regarding the submission and approval of drainage plans and their implementation prior to the development being brought into use.

Housing Strategy Section - the policy complaint position would be for 25% of the units as affordable housing of which 15% should be social rented and 10% should be shared ownership. However, there may be a reluctance for the Registered Provider to take on shared ownership units in the form of 1 bed flats, as usually the demand for shared ownership is from smaller starter families looking for 2 and 3 bed properties. A sensitivity test should be carried out in any viability appraisal which would show that if the scheme is not viable at the percentage set out, would it become viable with fewer affordable units.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objections but if the vehicle entrance is not to be gated it is recommended that clear signage is put in place indicating that the entrance is private in nature. He anticipates that the rear aspect of the premises will be adequately lit and receive a strong degree of informal social policing via the residents themselves. A wealth of good practise in terms of standards relevant to minimum security requirements can be found at www.securedbydesign.com.

CAWP thinks that the general massing and proportions of the proposal are acceptable. Given the context of this proposal, however the details and quality of the development are essential in terms of the specification including the brickwork. Concerns were expressed about materials, in particular timber boarding on ground floor openings. The applicant has accepted this point and indicated that whilst the material appears as timber it will not be. A corten steel panelling is proposed which the applicant indicates is a strong reinforced material to offer protection due to its location on the ground floor. The applicant has also submitted further information to satisfy concerns about the wall at the front

The **Conservation and Urban Design Officer** indicates that the proposed scheme lies adjacent and opposite to the Stubbs Walk Conservation Area, characterised by the 19th century mill and Georgian town houses with their rhythmic quality. The concerns raised by CAWP regarding the timber boarding to the ground floor windows has now been addressed by the applicant and suitable materials could be secured via condition. The streetscene plan submitted with the application shows a contemporary building with deep reveals with a minimum reveal of 50mm which will emphasise the quality and solidity of the walls. More details are required on materials especially finish and quality of the boundary wall, including height of the wall and railings as are more details on the shape of the roof proposed including the treatment and finish of the proposed parapet and how this will be dealt with.

The **Waste Management Section, Staffordshire Wildlife Trust** and **The Newcastle South Locality Action Partnership (LAP)** have been consulted on this application and has not responded by the due date and so it is assumed that they have no comments to make on the application..

Representations

Five letters of support have been received and one letter of objection.

The letter of objection raises concerns about the level of proposed car parking and the adverse impact that this would have on existing on-street car parking problems on neighbouring streets. Focus is drawn to the development of student flats permitted on the former Jubilee Baths site and the lack of car parking proposed also. The scheme was originally granted for 244 rooms but a later application which increased the development to 273 rooms was refused by the Council. However, the applicant has appealed against the decision.

The letters of support outline that the site has been neglected for years and a quality development would improve the area. The redevelopment would also address anti-social behaviour issues.

Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Report
- Arboricultural Impact Assessment
- Phase 1 Geo-Environmental Report
- Acoustic Report
- Heritage Report
- Affordable Housing position Statement
- Preliminary Ecology Appraisal

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/16/00630/FUL>

Background Papers

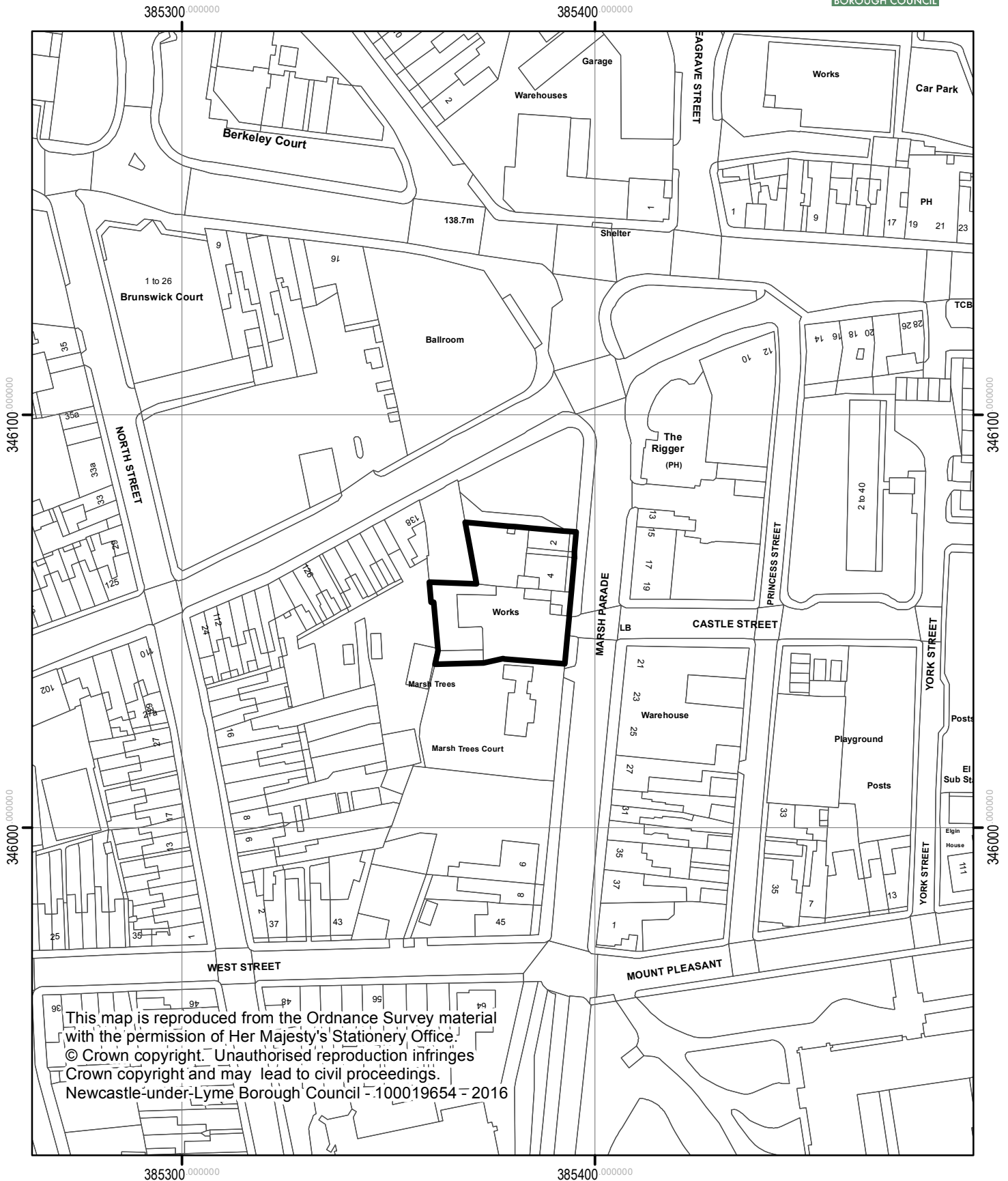
Planning File
Development Plan

Date report prepared

20th December 2016

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**2 - 4 Marsh Parade
Newcastle Under Lyme
ST5 1BT**



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LAND AT BARRIE GARDENS, TALKE
ASPIRE HOUSING

16/00874/FUL

The application seeks full planning permission for the erection of 10 bungalows on land at Barrie Gardens in Talke.

The application site lies on the edge but within the major urban area of Talke which has no specific land use designations, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.47 hectares

The statutory 13 week determination period for the application expired on 23rd January 2016.

RECOMMENDATION

- A. Subject to the County Council Flood Risk Team raising no objections to the application, and**

Subject to the applicant then entering into a Section 106 agreement by 3rd February 2017 (requiring that they first agree in writing to extend the statutory determination period to the 8th February 2017) and to secure a financial contribution for the enhancement and maintenance of the open space the amount of which and the location where it will be expended will be reported to the Committee.

Permit, subject to conditions relating to the following: -

- 1. Standard Time limit for commencement of development**
 - 2. Approved plans**
 - 3. Development to be occupied by those aged 55 and over**
 - 4. Materials**
 - 5. Finished ground and floor levels and retaining wall design details**
 - 6. Boundary treatments**
 - 7. Tree protection**
 - 8. Landscaping of the site and the surrounding open space**
 - 9. Contaminated land conditions**
 - 10. Construction Method Statement (Highways and Environmental matters)**
 - 11. Internal noise levels**
 - 12. Construction hours**
 - 13. Approval of recyclable materials and refuse storage**
 - 14. Provision of access, parking, servicing and turning areas prior to occupation.**
 - 15. Prior approval of surfacing materials and surface water drainage for the access road and parking areas, and the delineation of visitor parking bays; and implementation of approved details**
 - 16. Off-site highway works including the provision of a 2m wide footway linking the site with Lynn Avenue and provision and delineation of 5 parking spaces at the rear of 1 to 9 Barrie Gardens.**
 - 17. Proposed coal mining precautionary measures**
 - 18. Intrusive site investigations and remedial works implementation**
 - 19. Prior approval of details for storage and collection arrangements for recycling and refuse and implementation of approved details**
- B. Should the matters referred to in (A) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development fails to secure the provision/maintenance of off-site public open space or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

Reason for recommendation

Whilst the development is not located on previously developed land, it is located within a sustainable urban area and given that there is a strong presumption in favour of sustainable development in the context of the Councils inability to be able to demonstrate a 5 year supply of deliverable housing it is considered that the development is acceptable in principle. The design of the scheme, impact on neighbouring amenity levels, trees, highway safety and land stability/ previous coal working matters are considered acceptable subject to conditions. However, if objections are received about drainage/ flood risk issues and/ or an appropriate financial contribution is not secured for public open space then the development would be contrary to policies of the development plan and the aims and objectives of the National Planning Policy Framework (NPPF).

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

Following the withdrawal of the previous application the applicant has successfully addressed concerns which were raised by consultees and your officers at the time of that application. Subject to the outstanding matters being resolved it would represent a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

1.0 KEY ISSUES

1.1 The application seeks full planning permission for the erection of 10 bungalows (five pairs of semi-detached properties) on land at Barrie Gardens in Talke. The application is a resubmission of a previous application for 13 bungalows, application reference 15/00956/FUL, which was withdrawn primarily to address concerns raised by the Coal Authority about the impact of previous coal mining activities and land stability issues.

1.2 The application site, of approximately 0.47 hectares in extent, is currently in use as incidental open space and as such it does not meet the definition of previously developed land but is located within the urban area of Newcastle which has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

1.3 Whilst the site is an area of open space it is not identified as such in the North Staffordshire Green Space Strategy.

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

- Is this an appropriate location for residential development?
- Does the application satisfactorily address coal mining and land stability matters?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?
- Would the proposed development have any material adverse impact upon highway safety?
- Flood Risk and Sustainable Drainage
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

2.0 Is this an appropriate location for residential development?

2.1 Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

2.2 Saved local plan policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to

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

2.4 The land is located on the edge but within the major urban area adjacent to an existing and established housing area. The site therefore has to be recognised as a sustainable area for new housing with a regular bus service (between Kidsgrove and Newcastle) on Coalpit Hill and a public house and church within 500 metres walk of the site.

2.5 The site appears as an area of open space that objectors have stated is used by residents. However, the site is not identified within the North Staffordshire Green Space Strategy and therefore is not required to meet the level of required greenspace within the locality due to there being other local areas nearby which contribute to achieving the standard required. For this reason it is not considered that the land can be protected for open space purposes.

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

2.7 The Local Planning Authority is currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a location which is close to services and facilities and promotes choice by reason of its proximity to modes of travel other than the private motor car.

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

3. Does the application satisfactorily address coal mining and land stability matters?

3.1 Paragraph 120 of the NPPF advises that “To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

3.2 A large proportion of the application site is located within a high risk coal mining area and the application is supported by a coal mining risk assessment and a summary of mine entries document. The risk assessment identifies that there are two mine entries (shafts) within the application site.

3.3 The Coal Authority objected to a previous application for 13 dwellings on the site due to three of the dwellings being proposed directly over the two shafts. The previous application was withdrawn due to that objection so that the applicant could address such concerns and this has resulted in a reduction in the number of dwellings within this application, and the siting of the dwellings as currently proposed has been adjusted accordingly.

3.4 A number of objections have been received from residents regarding the suitability of the land for building due to the location of the mine shafts and the stability of the land. The Coal Authority however have now raised no objections following the submission of further information which they

consider to be broadly sufficient for the purposes and meets the requirements of the planning system in demonstrating that the application site is, or can be made, safe and stable for the proposed development, subject to a condition for the submission and approval for further site investigation works and any remedial works. An additional condition which secures the proposed precautionary measures included in the letter dated 17 October 2016 from Couch Consulting Engineers Ltd is also considered necessary. On the basis of this advice it is the view of your officers that the applicant has satisfactorily demonstrated that a safe development can be secured in accordance with the NPPF.

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

4.1 The application site has residential dwellings on three sides. The cross sections of the site submitted with the application show that the existing dwellings beyond the western boundary on Walton Grove are in the region of 8.5 metres lower than the existing ground level of the site. Existing dwellings to the north and east are also on lower lying land although the levels difference are not as significant.

4.2 The character of the area is primarily of two storey terrace dwellings on Barrie Gardens and two storey semi-detached dwellings on Lynn Avenue and Walton Grove. The proposed dwellings would be semi-detached bungalows which would contrast with the existing dwellings.

4.3 The application indicates that “the design for the appearance of this proposal is one that has been derived from taking the traditional bungalow, its proportions and design features, and giving them a modern twist”.

4.4 The proposed dwellings would have a staggered building line with differing ridge heights which creates design interest whilst also seeking to address the levels difference of the site and locality. The finished ground levels will need to be controlled to ensure that the development has an appropriate appearance. Furthermore, whilst there are no bungalows within the immediate locality it is considered that the elevated nature of the land and the topography of the area are matters that help to justify bungalows in this instance. The general appearance and layout of the proposals are also considered acceptable subject to conditions which secure the submission and approval of appropriate facing materials and additional levels information for all retaining structures which shall include the appearance, height and location. The impact of the ground levels and the retaining structure on existing trees would need to be addressed through condition. A further condition regarding any replacement planting to be included in any submitted landscaping scheme would also need to be submitted for approval. Style and height of boundary treatments should also be submitted for approval. Subject to these conditions it is considered that the proposed development would not have a significant adverse impact on the character and appearance of the area in accordance with policies of the development plan and the NPPF.

4.5 The removal of the three dwellings, due to the location of the coal mining shafts, results in an area of the site being undeveloped. This is likely to be left open and could serve the same purpose as it does now. However, some planting may be proposed as part of any landscaping scheme to be secured by condition.

5.0 Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?

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

5.2 Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on development including the need for privacy, daylight standards, and environmental considerations.

5.3 As discussed the site is elevated compared to existing residential dwellings but by virtue of the separation distances and the siting and orientation of the proposed dwellings and their relationship with existing neighbouring properties the proposed development would comply with the guidance of

the SPG and would not result in a significant loss of amenity to the occupiers of the neighbouring dwellings. Therefore it would meet the guidance and requirements of the NPPF in this regard. Furthermore, each of the proposed dwellings would have a satisfactory level of private gardens

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

6.1 The application site is served off an un-adopted piece of land which can be accessed off both Lynn Avenue and Barrie Gardens. The piece of land is under the applicant's ownership and forms part of the red edge application site.

6.2 A Technical Note – Traffic and Transport Review has been submitted to support the application which describes the piece of un-adopted highway as a car parking court which serves properties on Barrie Gardens. No spaces are laid out but generally cars park around the edges to allow traffic flow through this land.

6.3 A car parking survey has been conducted which established that the existing parking court will need to retain sufficient space to accommodate a maximum of 3 vehicles for existing properties. The proposed plan shows that 5 vehicles can be parked in the car parking court which would not impede vehicle movement to the proposed dwellings, including that of a refuse vehicle. In addition the proposed dwellings would have a further 23 car parking spaces.

6.4 Policy T16 of the local plan sets out that for a two bedroom property a maximum of 2 spaces should be provided. Therefore the proposed development provides an overprovision of car parking by three spaces.

6.5 The Highways authority has raised no objections subject to conditions. As discussed the site is within a sustainable location and your officers consider that two of the spaces could be lost for the proposed dwellings and replaced with soft landscaping, details of which can be secured via a condition for a wider landscaping scheme for the development. Subject to this and the other conditions advised by HA it is considered that the proposals would not lead to any significant highway safety concerns and is in accordance with policy T16 of the local plan.

7.0 Flood Risk and Sustainable Drainage

7.1 The NPPF at Paragraph 103 indicates that when determining planning applications local planning authorities should ensure that development would not lead to flood risk elsewhere.

7.2 The County Council Flood Risk team have been consulted on the application and have raised objections due to the absence of a Drainage Strategy/ Flood Risk Assessment which means they are unable to assess whether the proposed design would meet the non-statutory technical standard.

7.3 The applicant has now submitted a drainage plan and a further consultation has been undertaken. Subject to them raising no objections, along with any conditions, the application has demonstrated that the proposal would not lead to flood risk elsewhere in accordance with the NPPF.

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

8.1 The proposed development does not meet the threshold for the requirement for affordable housing and the application indicates that the bungalows are to be occupied by persons who are over the age of 55. On this basis there would be no education contribution required from this development. A condition restricting the dwellings to over 55's is therefore considered necessary.

8.2 The Landscape Development Section (LDS) have requested a contribution towards the improvement and maintenance of off-site public open space. They indicate that the locality is poorly served in terms of play area provision and they seek a financial contribution equating to a total of £29,430. However given that the dwellings would be for over 55's it is arguable whether the contribution sought is "fairly and reasonably related in scale and kind to the development." Further consideration is being given to this, and a supplementary report will be provided to the Committee.

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 SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N4	Development and Nature Conservation – Use of Local Species
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other material considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

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

Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Space Around Dwellings SPG (SAD) (July 2004)

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

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

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2016 – Version 1.7

Relevant Planning History

15/00956/FUL 13 single storey 2 bed residential units Withdrawn

Views of Consultees

Kidsgrove Town Council and **Severn Trent Water** have not responded and it is assumed that they have no comments or observations to make on the application.

The **Landscape Development Section** raises no objections subject to conditions regarding tree protection and landscaping. However further clarification on levels and retaining structures is advised. A public open space contribution is also requested and further information on this matter will be submitted prior to the committee meeting.

The **Education Authority** states that the development falls within the catchments of St. Saviour's CE(VC) Primary School and The Kings CE(VA) School. It is advised that this development is proposed to provide 10 dwellings for the over 55's. Provided it was a condition of the planning permission that the dwellings could only be occupied by the over 55's, there would be no education contribution required from this development.

The **Environmental Health Division** raises no objections subject to conditions regarding contaminated land, construction hours, construction method statement, noise levels and refuse storage and collection arrangements.

The **Highway Authority** raises no objections subject to conditions that the access, parking, servicing and turning areas have been provided; surfacing, drainage and delineation of spaces, provision of off-site parking and footway works, and the submission and approval of a Construction Management Plan. They raise no objections to the revised plans also.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objection. In the interests of basic security measures it is recommended that all doors and windows are installed to the standard for minimum security of PAS 24. It is also recommended that gardens are enclosed by approx. two metre high solid fencing and that access control exists down the sides and rear of the dwellings. Most residential burglaries occur via access to the sides and rear of 2 properties. Further details regarding good practise can be found at www.securedbydesign.com

Staffordshire County Council Flood Risk Team has stated that in the absence of a Drainage Strategy/ FRA they are unable to assess whether the proposed design will meet the non-statutory technical standards for sustainable drainage systems and the implications for flood risk on site and downstream. They therefore recommend that planning permission is not granted until an acceptable Drainage Strategy/ Flood Risk Assessment has been submitted.

The **Coal Authority** raises no objections following the submission of further information since the previous planning application. They concur with the recommendations of the submitted Phase 1 Geo-Environmental Report (July 2015, prepared Sladen Associates); that both actual and probable shallow mine workings potentially pose a risk to both public safety and the stability of the proposed development. Consequently, intrusive site investigation works should be undertaken in order to establish the exact situation regarding them. Conditions can therefore be imposed to ensure that further site investigation is undertaken with any identified remedial works being undertaken. They would expect the proposed development to be carried out in accordance with the proposed precautionary measures included in the letter dated 17 October 2016 from Couch Consulting Engineers Ltd.

The **Waste Management Section** raises no objections subject to a condition full and precise details for storage and collection arrangements for recycling and refuse is agreed prior to development taking place.

Representations

Nine letters of representation have been received raising the following objections;

- Loss of green open space for kids to play,
- Increased traffic congestion on neighbouring streets,
- Previous coal mining activities have made the site unsafe to build on,
- Pollution from building houses,
- Loss of a view,
- Loss of light to neighbouring properties,
- Access to the site during winter would be difficult,

Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Survey and Impact Assessment
- Flood Risk Assessment
- Transport Statement
- Phase 1 Geo-Environmental Report & Coal Mining Risk Assessment
- Summary of mine entries document

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00874/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

21st December 2016

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MARKS AND SPENCER, WOLSTANTON RETAIL PARK
MARKS AND SPENCER PLC

16/00958/FUL

The Application seeks to vary condition 3 of planning permission 11/00611/FUL which granted planning permission for the store.

Condition 3 as worded in the decision notice is as follows:

The permission hereby granted relates to a single retail unit of 13,010 m² gross internal floorspace with a sales area floorspace of no more than 8,962 m², of which no more than 7,973 m² shall be for the display of comparison goods and no more than 989 m² shall be for the display and sale of convenience goods only.

The reason given for the condition within the decision notice was;

For the avoidance of doubt, to ensure the development does not unduly affect the vitality and viability of Newcastle-under-Lyme town centre, and the City Centre and in accordance with Policy TC1 of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011, Policy SP1 of the Newcastle-under-Lyme and Stoke on Trent Core Spatial Strategy 2006 – 2026 and the aims and objectives of the National Planning Policy Framework.

The variation that is being sought is increase the amount of floorspace for the display and sale of convenience goods to 1,496 m² but the sales area floorspace would remain unaltered

The site lies within the Newcastle Urban South and East Neighbourhood Area on the Local Development Framework Proposals Map.

The 13 week period for this application expires on 14th February 2017.

RECOMMENDATION

Subject to the applicant entering into planning obligations by no later than 12th February 2017, that preserve the Newcastle Borough and Stoke City Councils' position in respect of obligations secured prior to the grant of permission 11/00611/FUL, PERMIT the variation of condition 3 of 11/00611/FUL so that it reads as follows:

The permission hereby granted relates to a single storey retail unit of 13,010 m² gross internal floorspace with a sales area floorspace of no more than 8,962 m², of which no more than 7,973 m² shall be for the display of comparison goods and no more than 1,496 m² shall be for the display and sale of convenience goods only.

and subject to the imposition of all other conditions attached to planning permission 11/00611/FUL that remain relevant at this time.

Reason for Recommendation

The proposal would not result in any additional retail floorspace in this out of centre location and as such there is no requirement to undertake either a sequential or an impact assessment as defined in the NPPF. In addition parking at the retail park would remain acceptable.

The effect of a grant of approval is to create a new planning permission. The previous permission was only granted following the entering into of a Section 106 agreement securing a number of matters, of which the following remain relevant and would require a further obligation to be entered into to ensure that these matters continue to be secured:

- The proposed store to only be occupied by M&S for a period of 5 years from date of occupation;

- Under the Marks and Start programme, M&S to work with a number of local residents that are long term unemployed, homeless or under care of local charities and provide them with work placements at the store;
- Within the public area of the store, M&S to provide an area for community displays in order to promote Newcastle-under-Lyme town centre in accordance with details to be agreed and appropriate parameters that are specified;
- M&S Wolstanton to contribute £10,000 per annum. This will continue until the earlier of M&S ceasing to trade at Wolstanton or M&S opening a Simply Food store in the town centre with an option for M&S to continue thereafter;
- No more than 10% of the gross internal floorspace of the building to be occupied in aggregate by concessions/franchises.
- M&S to commit to operate at least a full Simply Food store, of a minimum size to be agreed, on a site which provides for a tenancy at market-prevailing terms within Newcastle Town centre prior to them opening to trade on this out of centre site; and
- The provision of a bus service to connect the site to/from Newcastle town centre for a minimum period of 3 years from the date of occupation (November 2014) to run at a 30 minute frequency between the hours of 0800 and 1800 Monday to Saturday;

In addition a separate obligation was entered into with Stoke City Council requiring for a period of five years from occupation Marks and Spencer should continue to trade from the existing, or a substitute, Hanley Store and the further obligation is required to ensure that this matters continue to be secured.

Subject to this and the imposition of the same conditions as were imposed on 11/00611/FUL that remain relevant at this time it is not considered that there are any adverse impacts of the development that would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

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

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

Key Issues

The application seeks a variation of condition 3 of the planning permission reference 11/00611/FUL which permitted a new store at Wolstanton Retail Park, now occupied by Marks and Spencer. The condition set an upper limit on the amount of floorspace within the building, limiting the overall amount of sales floors space to 8,962 m² specifying that sales floorspace for the display and sale of convenience goods (food, drinks etc.) should not exceed 989 m². The variation sought is an increase in the amount of floorspace dedicated to convenience goods to 1,496 m² (an additional 507 m²). Additional floorspace is not proposed by extension to the store, or by increasing the overall amount of sales floorspace within the building, the increase in convenience goods floorspace as proposed is at the expense of the overall amount of comparison goods floorspace within the building.

The applicant, Marks and Spencer, are looking to expand the Foodhall by adding a delicatessen which will have bar stool seating to provide an alternative offer to the café at first floor.

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

- The principle of the proposed increase in convenience goods floorspace
- Parking
- Are further section 106 planning obligations required.

Principle of the proposed increase in convenience goods floorspace

CSS Policies SP1 and SP2 seek to direct retail development to Newcastle town centre or Hanley City Centre. CSS Policy ASP5 indicates that any retail development outside of Newcastle Town Centre will be within a local centre and that its nature and scale should be appropriate to that local centre and will primarily meet the identified local requirements.

The NPPF, at paragraph 24, indicates that LPAs should apply a sequential test to planning applications for 'main town centre uses' that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants *and* local planning authorities should demonstrate flexibility on issues such as format and scale.

The NPPF states the following, at paragraph 26.

When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq. m). This should include assessment of:

- *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
- *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.*

No change to the sales area floorspace of 8,962 m² is proposed and as such the variation of condition if implemented would result in a reduction in the amount of floorspace dedicated to comparison goods. As the amount of sales area floorspace would remain unchanged the variation of condition as proposed would therefore allow some flexibility so that a subsequent reduction in the overall amount of convenience goods floorspace, and an increase in comparison goods floorspace, could take place without any further need to vary the condition.

Given that no additional main town centre use floorspace is proposed there is no policy requirement to apply a sequential or impact assessment to the proposal. Notwithstanding this the applicant has sought to consider any changes to the health of Newcastle Town Centre in its submission since the original proposal was permitted and since the opening of the Marks and Spencer Wolstanton Store in November 2014.

The submission indicates that there has been a decrease in the proportion of convenience units in Newcastle town centre between 2011 and 2016 in terms of the number of units (10% to 8.56%) and floorspace (13.3% to 12.91%). This is said to be reflective of the national trend of decreases in the number of convenience units and floorspace in the same period (9.2% to 8.66%, and 17.4% to 15.22% respectively) where town centres are becoming more service based with fewer convenience units and floorspace.

The submission also indicates that vacancy rates have dropped between 2011 and 2016 from 13% to 10.4% in terms of number of units and from 18.3% to 7.93% in terms of floorspace. This has resulted in vacancy rates in Newcastle changing from a position where it was significantly above the national average in 2011 (the national average being 12.9% in terms of number of units and 11.3% in terms of floorspace) to now being below the national average in 2016 (11.5% in terms of number of units and 9% in terms of floorspace).

Therefore, overall the health of Newcastle Town Centre can be considered to have improved since 2011.

The other element of impact as set out in paragraph 26 of the NPPF is the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal. At the time that the original application was determined it was concluded that it could not be argued that the development would have an unacceptable impact on the planned investment in the Ryecroft site (the town centre site comprising the former Sainsbury's store and the Civic Offices). Since then some progress has been made on this planned investment, as a development partner is now in place although a planning application has not been submitted or determined as yet, and it is not known whether the development will accommodate a convenience goods retailer. Whilst the City Council have referred to recent national announcements by the retailer relating to store closures and a greater focus on food sales, that same announcement (within the firm's half year results) did include an intention to continue with the rollout of their Simply Food stores. There is no firm evidence that the proposal will discourage a convenience goods retailer operating from the Ryecroft development, including the applicant, and that this will adversely impact on this planned investment. It is accepted that the submission does not address any impact on Hanley.

However in any event, given that impact is not a matter that can be addressed within the consideration of this application, given the scale of the increased convenience floorspace involved, such impact whether on existing, committed, and planned investment whether in Newcastle or Stoke could not form grounds for its refusal. Nevertheless the applicant has been invited to respond to the City Council's comments as reported below, and a supplementary report will be provided on that if any response is provided.

In light of the above, and taking into consideration that the proposal will require in the region of approximately six Full Time Equivalent staff, it is concluded that there are no objection to the principle of the proposal.

Parking

Policy T16 of the Local Plan sets out, in the associated Annex, maximum parking standards for different uses. It indicates that the maximum number of parking spaces for food retailing, at 1 space per 14 m² of floor space, is higher than for non-food retailing which is 1 space per 20 m². The development was permitted with a total of 1,479 parking spaces for the whole retail park including the new store. This was calculated to be 72 spaces short of the maximum and was considered to be within a reasonable tolerance level. The changes as proposed, which would increase the number of spaces short of the maximum to about 82 spaces.

The existing car park provides adequate parking to meet the needs of the retail park overall. It is not considered that the proposed change will have any material impact on the adequacy of the parking provision at this location.

Are further Section 106 obligations required?

The previous permission was only granted following the entering into of two Section 106 agreements securing a number of matters, of which a number remain relevant and would require further obligations to be entered into to ensure that these matters continue to be secured. For the reasons indicated above it is not considered appropriate to make the permission conditional (whether by condition or by obligation) upon the prior occupation of a unit in Newcastle Town Centre of an M&S Simply Food operation (and that the company commits to a lease of a certain minimum length). The obligations sought should be limited to those previously secured.

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 SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP4: Newcastle Town Centre Area Spatial Policy
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy T16: Development - General Parking Requirements
Policy T18: Development – Servicing Requirements
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)
Planning Practice Guidance (PPG) (2014) including guidance on the use of conditions

The Newcastle-under-Lyme Retail and Leisure Study 2011

Relevant Planning History

Planning permission was granted for the demolition of existing retail warehouse units, distribution unit and redundant methane pumping station. Construction of new retail store with ancillary refreshment facilities, new and altered car parking, servicing and sewerage facilities under application reference, 11/00611/FUL.

Views of Consultees

The **Economic Regeneration Section** comment that one of the offers made by M&S to mitigate the impact of the Wolstanton development on the town centre (as well as committing to a certain annual payment to support the work of the Business Improvement District (BID)) was they would use their best endeavours to locate a 'Simply Food' outlet in the town centre. HDD, developers of the Ryecroft site, have, as a result, been in discussions with M&S about their committing to a lease on the 1,115 m² unit within the retail element of the Ryecroft scheme (the HDD scheme provides for around 6,224 m² of retail space overall). There is no enforceable legal obligation on M&S to commit to such a lease and so, to date, these discussions have moved forward on a goodwill basis only. Planning control can, however, provide an obligation and planning permission should be granted for the proposal but that should be conditional upon the prior occupation of a unit in Newcastle Town Centre of an M&S Simply Food operation (and that the company commits to a lease of a certain minimum length).

Stoke City Council notes that the submission fails to address the potential for any impacts upon Hanley, despite this centre featuring within the reason for imposing the condition. It is considered important to assess the impact of this proposal upon existing, committee and planned public and private investment in Hanley. Given the announcement that Marks and Spencer would provide one of the anchor tenants for the new Unity Walk development in Hanley, any impact must be closely examined, particularly in the context of national announcements by the retailer relating to store closures and a greater focus on food sales.

After updating the trade diversion calculations undertaken in support of the original application there would be an impact of up to 12.8% on the existing M&S store located within Hanley. Given that the existing store in Hanley contributes to the centre's vitality and viability there is concern that such a proposal could threaten its continued viability. Furthermore, as it is known that this store is scheduled

to be vacated in favour of a store presence within the Unity Walk development there is a greater concern that this proposal could threaten this future investment.

They consider that further information should be sought from the applicant as to their future business plans for Hanley in order that the impact of the application on the centre and future public and private investment can be fully understood before taking a decision on the case.

East Newcastle LAP have not provided any comments by the due date and so are assumed to have no observations upon the application.

Representations

None received.

Applicant's/Agent's submission

The application form and location plan and supporting information are available for inspection at the Guildhall and on the website that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00958/FUL>

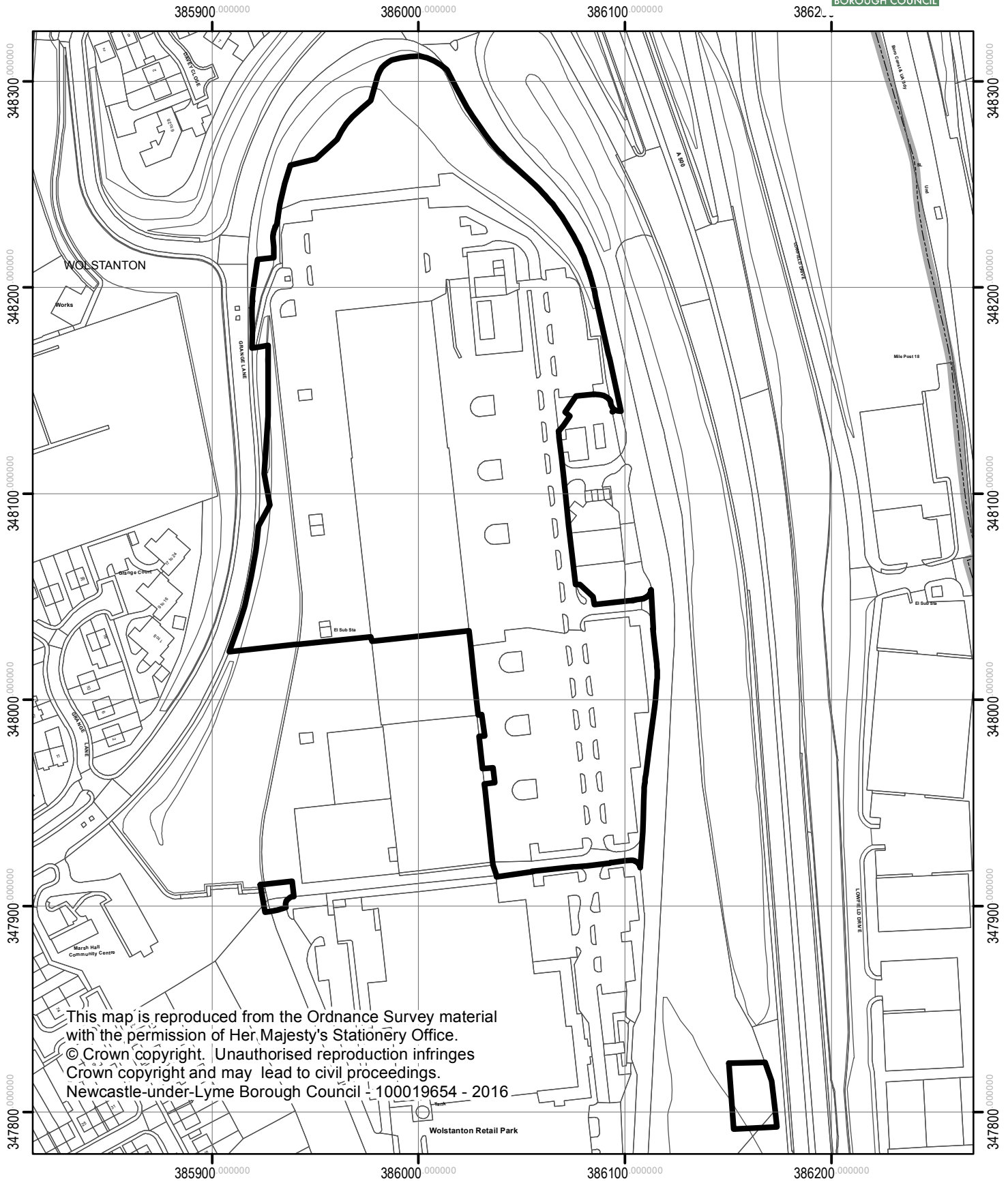
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

20th December 2016

16/00958/FUL Marks & Spencer Wolstanton Retail Park



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Newcastle-under-Lyme Borough Council - 100019654 - 2016

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Agenda Item 7

LAND SOUTH OF WEST AVENUE, WEST OF CHURCH STREET AND CONGLETON ROAD AND
NORTH OF LINLEY ROAD, BUTT LANE, KIDSGROVE
REVELAN DEVELOPMENTS LTD

12/00127/OUT

Outline planning permission for residential development of 172 dwellings, an area of community woodland, public open space and the formation of new accesses was granted in December 2013, following the completion of an agreement under Section 106 securing various planning obligations.

A request from the County Council has been received to vary the terms of the agreement, as has one from the developer Taylor Wimpey.

RECOMMENDATIONS

- a) That the decision of the Chairman to agree to the variation of the existing Section 106 agreement to extend the period within which the Public Rights of Way Contribution can be spent be noted**
- b) That the Head of Planning be given delegated authority to give appropriate instructions to the Council's solicitor so that the spirit of the Affordable housing Supplementary Planning Document is maintained in any revision to the Agreement.**

Reason for Recommendation

- a) the matter was urgent and an immediate decision was required to avoid putting the public right of way works at risk
- b) Whilst the matter falls within the remit of the Committee, the matter is complex and an authority is sought to negotiate the exact terms of any revised agreement

KEY ISSUES

When a Section 106 agreement was drawn up in December 2013 with respect to the development referred to in planning application 12/00127/OUT, the agreement secured the payment of a "public right of way" contribution (some £48,000). The agreement includes various obligations by the County Council (as the recipient of this sum and as the public rights of way authority) including that they should use this contribution solely on improvement works and maintenance measures on public rights of way in the vicinity, that if the contribution has not been expended within 12 months of its receipt by them it has to be returned by them to the party who had made the contribution (with interest).

Following the completion of the agreement the planning permission was then issued, and subsequently its reserved matters have been approved and the development is well underway.

The County have had difficulty arranging for the public right of works to be done for various reasons, and they have, the Borough Council have been advised by Taylor Wimpey, requested a variation of the Section 106 agreement to extend the period when the contribution for the public rights of way improvement can be spent. Taylor Wimpey have written to the Borough Council indicating that they are happy to extend the period for the contribution to be spent for a further 6 months.

The public right of way improvements referred to are to a public right of way that connects this development (and an earlier phase of development by the same developer) almost directly to St Saviour's Primary School, and are considered by your officer as an important part of making this a "sustainable" development.

The agreement of the Borough Council to such a variation of the existing Section 106 is required. In the circumstances there is no apparent reason why the Borough Council should not agree to such a variation. The matter does fall to the Planning Committee to determine but the view was reached that if the decision was left to the 4th January meeting there was a risk that it would in practical terms be too late by then for the County Council to formally arrange for such a Deed of Variation.

Accordingly this has been treated a Matter of Urgency (as set out in Appendix 4 to the Constitution) and the Chair having been consulted, on the 20th December agreed to this proposed

variation. In accordance with the Constitution this decision is reported to the Committee for information.

Taylor Wimpey have also approached the Council about another matter. They are asking that the Borough Council (and the other signatories to the agreement which includes the County Council), to agree an amendment that concerns what they term the Mortgagee exclusion clause within the Affordable housing Schedule to the agreement. A mortgagee is the lender in a mortgage. In short the agreement as existing contains various covenants that the Owners of the site have made in relation to the shared ownership unit, but the agreement in its clause 4.6 indicates that these covenants are not binding upon a mortgagee in possession of the whole or any part of the shared ownership units. The term 'mortgagee in possession' refers to the situation in which a lender takes possession and control of a mortgaged property upon foreclosure of the loan secured by the mortgage. Aspire, who are actively considering becoming involved on this site, have detailing the changes that they would wish to see made to this particular clause. The starting point of your officers is that if an RSL indicates that they consider that the terms of an agreement may prevent them from becoming involved in a site (and thus providing affordable homes) then serious consideration is always given to such requests. As Aspire have pointed out the Council has previously agreed, in another agreement, (on the basis that it is no longer acceptable to lenders) to delete the reference to 'mortgagee in possession' in this clause and replace it simply with the term 'mortgagee'.

A series of other detailed issues are also raised. It is considered that officers may need to negotiate with the other parties to ensure that the agreement if amended is in the spirit of the Affordable Housing SPD and delegated authority to do this is sought from the Committee.

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 SP3: Spatial principles of Movement and Access
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy IM1: Planning obligations

Other material considerations include:

Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

Relevant Planning History of the application site

11/00645/OUT Residential development of 176 dwellings, area of community woodland, public open space and formation of new accesses Refused 1 March 2012

12/00127/OUT Residential development of 172 dwellings, area of community woodland, public open space and formation of new accesses – Approved December 2013 following completion of Legal agreement

14/00562/REM Reserved matters approval for 171 dwellings October 2014

15/00441/DOAHR- application under Section 106BA to revise the affordable housing contribution secured within the planning obligation entered into – approved March 2016

Background Papers

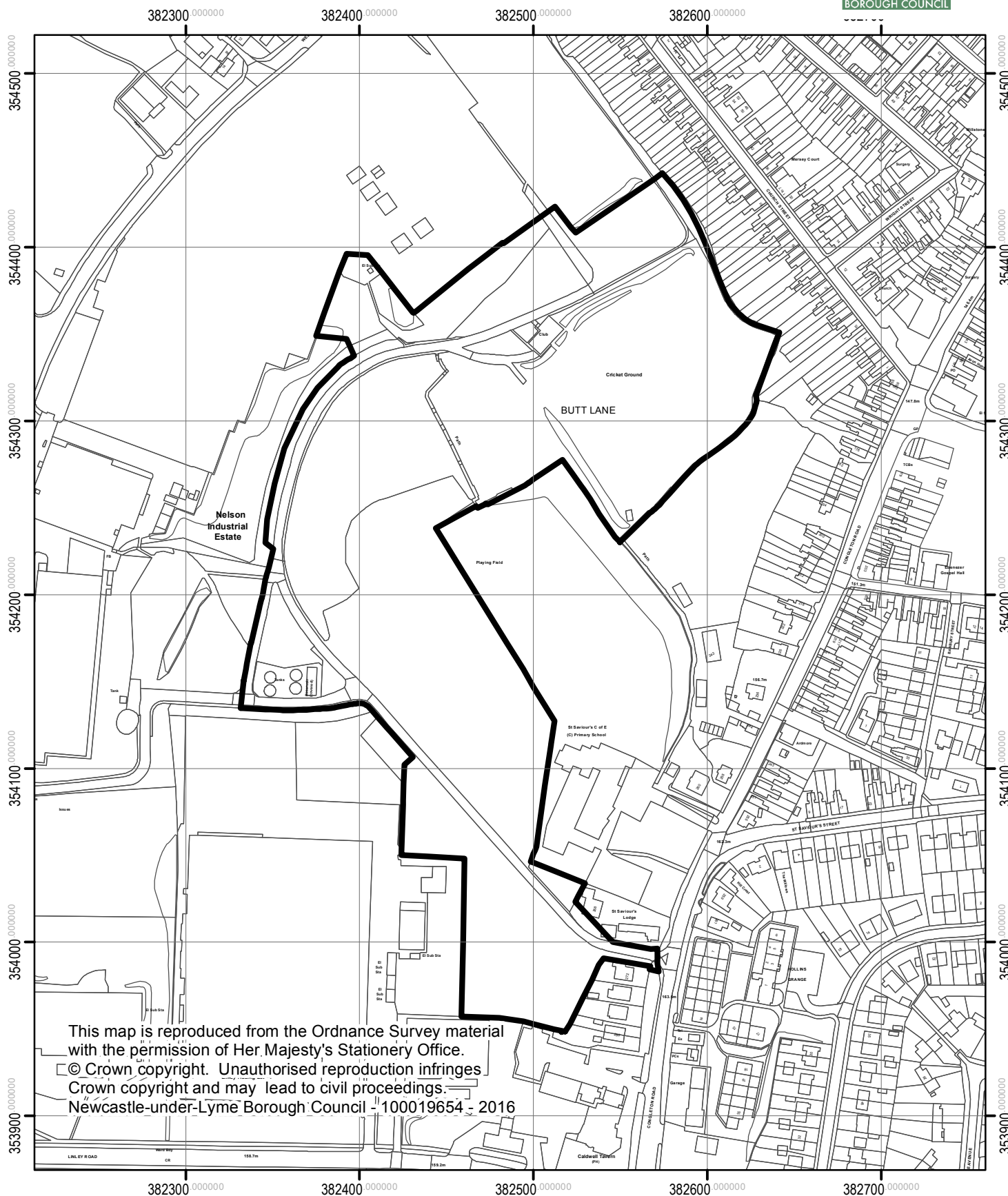
Planning file
Planning documents referred to

Date report prepared

22nd December 2016

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12/00127/OUT
Land South Of West Avenue, West Of Church
Street And Congleton Road, And North
Of Linley Road, Butt Lane



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BARNES HALL, KEELE UNIVERSITY
LINDSAY HALL, KEELE UNIVERSITY
HORWOOD HALL, KEELE UNIVERSITY

16/01014/FUL
16/01015/FUL
16/01016/FUL

The above 3 applications have recently been received.

They are for the following:-

16/01014/FUL Barnes Hall - The demolition of 366 student bed-spaces, and other demolition works; the erection of seven new halls of residence, comprising four cluster flat blocks and three townhouse blocks, to provide 617 new student bed-spaces, three wardens' flats and two laundries; the erection of a single-storey social hub; the erection of a new energy centre; the erection of ancillary buildings including bike stores and bin stores; the reconfiguration of parking, servicing and accesses; plus hard and soft landscaping, engineering works and associated infrastructure at Barnes Hall.

16/01015/FUL Lindsay Hall - The demolition of an energy centre, music studio and 241 student bed-spaces, and other demolition works; the erection of 10 new halls of residence, comprising seven cluster flat blocks and three townhouse blocks, to provide 814 new student bed-spaces, three wardens' flats, three laundries, a social hub in two locations; the erection of a replacement energy centre; the erection of ancillary buildings including bike stores and bin stores; the reconfiguration of parking, servicing and accesses; plus hard and soft landscaping, engineering works and associated infrastructure at Lindsay Hall.

16/01016/FUL Horwood Hall - The demolition of 266 student bed-space, and other demolition works; the erection of 13 new halls of residence, comprising seven cluster flat blocks and six townhouse blocks, to provide 915 new student bed-spaces, three wardens' flats and three laundries; the provision of a music and teaching facility and a replacement medical facility; the erection of a two-storey social hub; the erection of ancillary buildings including bike stores and bin stores; the change of use of 'House 99' to the Keele Postgraduate Association; the reconfiguration of parking, servicing and accesses; plus hard and soft landscaping, engineering works and associated infrastructure at Horwood Hall.

These applications will come before the Planning Committee for determination in due course.

RECOMMENDATION

That Members agree to hold a site visit in connection with these applications on Saturday 28th January at 0915 hrs

Reason for recommendation

The scale and complexity of the proposals referred to in these applications are such that it is considered appropriate to recommend that a site visit be held by members before the applications are considered at a later date

Relevant Issues

As members will no doubt be aware the Authority has received three applications for development at Keele University. The applications are accompanied by an Environmental Statement.

In view of the considerable scale and complexity of the project, together with the fact that they are for locations which some members may have a limited knowledge of, it is considered that it would be helpful for members and assist them in the decision making process for a site visit to be arranged at this stage, well before the applications are expected to come to the Planning Committee for consideration. Members are reminded that it is the policy of the Committee that only those members of the Committee or their substitutes who have attended the site visit are able to take part in and vote on the determination of applications which have been the subject of a site visit.

The proposed date is one that was agreed by the Planning Committee at its meeting in 26th June 2016 as a date when any Planning Committee site visit agreed on the 4th January 2017 would be held.

Background Papers : Planning files

Date Report Prepared : 22nd December 2016



Accommodation Enhancement and Expansion
Keele University
Existing
Campus Plan
1:2500 Scale
30/11/14
© Church Lukas Planning
All Rights Reserved

The survey information on Keele University Site Topographical Plans 5:1000 Revision F
Keele University
1:2500 Scale
30/11/14
© Church Lukas Planning
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See subject to separate planning application

See subject to separate planning application

See subject to separate planning application

- NOTES
- Existing to be removed
 - Existing to remain unoccupied
 - Existing to be demolished
 - Subject to all approvals

Drawn at 1:2500 scale. All dimensions are to be taken from the centre of the building unless otherwise stated.

Keele University and UPP Projects Ltd.
Church Lukas Planning
15008 09H-H-003

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5 BOGGS COTTAGES, KEELE ROAD, KEELE
MR THOMAS MAUGHAN

16/00969/FUL

The Application seeks to vary condition 1 of planning permission N21428 restricting occupancy of the property 5 Boggs Cottages, a mobile home, to Mr Edwards and any relatives/dependants living with him. The variation sought is to allow the occupation of the mobile home by Eileen McDonough, her partner Thomas Maughan, and their resident dependents.

The application site is within the Green Belt and a Landscape Maintenance Area as defined on the Proposals Map to the Local Plan.

The statutory 8 week determination period for the application expires on 5th January 2017.

RECOMMENDATION

Refuse for the following reason:-

- 1. The proposed variation of condition 1 of planning permission reference N21428 would result in a dwelling on this site, which would constitute inappropriate development within the Green Belt. The arguments advanced for the retention of the mobile home without compliance with the current condition do not constitute the very special circumstances required to justify inappropriate development in the Green Belt. The proposal is therefore contrary to Policy S3 of the Newcastle-under-Lyme Local Plan 2011 and the NPPF.**

Reason for Recommendation

On balance it is considered that as it has not been demonstrated that granting planning permission is in the best interests of the children allowing for the fact that if planning permission is refused the family would continue to live on the side of the road. In light of this it is considered that the personal circumstances of the applicants do not clearly outweigh harm to the Green Belt and any other harm so as to establish the very special circumstances required to justify approval.

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

It is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of the location of this development.

KEY ISSUES

The application seeks to vary condition 1 of planning permission for the use of a mobile home as dwellinghouse reference N21428, which is worded as follows;

“The permission hereby granted shall enure for the benefit of Mr Leonard Edwards only and any relatives or dependents living with him.”

The variation of the condition as proposed seeks to allow the occupation of the mobile home by Eileen McDonough, Thomas Maughan, and their resident dependents instead of it being for the benefit of Mr Edwards and any relatives or dependents living with him. The family in question are Irish Travellers and includes two children of primary school age. The agent appears to be proposing that the above condition should be amended to read as follows

“The permission hereby granted shall enure for the benefit of Mr Leonard Edwards, Eileen McDonough and Thomas Maughan only and any relatives or dependents living with them”.

The application site is within the Green Belt and as such the key issues to address are whether the proposed variation of condition results in inappropriate development within the Green Belt; and if it is inappropriate development consideration is required as to whether the necessary very special circumstances that would justify granting planning permission apply in this case.

Is this inappropriate development in the Green Belt?

Both national and local policy restricts development within the Green Belt to that which is defined as appropriate, except in very special circumstances. The NPPF indicates, at paragraphs 89 and 90 when the construction of new buildings and certain other forms of development are not inappropriate in Green Belt. The retention of the mobile home for residential occupation does not fall within any of the exceptions identified. In addition it would be contrary to Policy S3 of the Local Plan which identifies which forms of development may be permitted within the Green Belt and is broadly consistent with national policy. The national planning policy for traveller sites referred to below also indicates that traveller sites (temporary or permanent) in the Green Belt are inappropriate development

As such it is concluded that the development does constitute inappropriate development in the Green Belt and should therefore not be permitted unless very special circumstances exist.

Are there very special circumstances that justify inappropriate development in the Green Belt?

The NPPF indicates, at paragraph 87, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. At paragraph 88 it states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Policy CSP7 of the CSS sets out criteria for the location of additional gypsy and traveller pitches which are where they:

- Provide good access to shops, education, healthcare facilities and other essential services.
- Provide safe and convenient access to public transport and the highway network
- Have the capacity to incorporate all necessary on-site infrastructure e.g. parking, storage, waste disposal, play and residential amenity space.
- Minimise any negative impacts upon local landscapes, environments and neighbouring communities.

In addition to the NPPF, there is additional national policy set out in [Planning Policy for Traveller Sites \(August 2015\)](#) (PPTS) that is material to the determination of the planning application and relevant to the identification of any very special circumstances. Paragraph 16 of policy E (traveller sites in Green Belt), indicates that subject to the best interests of any child involved, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. Within policy H of the PPTS (determining planning applications for traveller sites), at paragraph 24, it states that LPAs should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) The existing level of local provision and needs for sites
- b) The availability (or lack) of alternative accommodation for the applicants
- c) Other personal circumstances of the applicant
- d) Locally specific criteria or policy.
- e) They should determine applications for sites from any travellers and not just those with local connections.

It goes on to reiterate the point made at paragraph 16.

At paragraph 27 it states that where an LPA cannot demonstrate an up-to-date 5 year supply of deliverable (traveller) sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. An identified exception is on land designated as Green Belt. A footnote advises that there is no presumption that a temporary grant of planning permission should be granted permanently.

The applicant's case is that the development constitutes inappropriate development in the Green Belt, that would at least reduce openness to a limited extent in the longer term (the contention being that there is no immediate such impact because of the alleged unenforceability of the Enforcement Notice). They submit that on balance, however, the unmet need for sites; the Maughan family's personal accommodation needs and personal circumstances; the absence of alternative sites for this vulnerable family; substantial compliance with the Council's locally specific criteria set out in policy CSP7; the failure of the development plan to bring forward suitable land for traveller sites in a timely manner; and the needs of the Maughan children, clearly outweigh the harm to the Green Belt and any other harm. Very special circumstances therefore exist, they submit, to justify the granting of planning permission.

The [Newcastle-under-Lyme, Stoke-on-Trent, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015](#) assesses the supply and the need for pitches over the next 5 years and identifies that there is a shortfall of one pitch. Over the 15 year period 2019/20 to 2033/34 the Assessment identifies a requirement for pitches for six new households, although the assessment indicates that this is an indicative figure and that further monitoring is required.

The applicant's case starts by suggesting that the Enforcement Notice in place that requires the removal of the mobile home on the site is of no practical effect because the use alleged is not occurring. Legal advice has been received on this point. The advice indicates that because the mobile home was not being used as a dwellinghouse at the time the Enforcement Notice was issued there was a breach of planning control as the stationing of a mobile home on the land with no specified use requires a separate planning permission. In any event as the Notice was not appealed against and it has now come into force so it cannot now be argued that there was or is no breach of planning control at the site as identified in the Enforcement Notice.

As the mobile home will not be retained on the site if planning permission is refused on this application, there is no 'fall back' position to take into consideration in this case. The retention of the mobile home will have an adverse impact on the openness of the Green Belt and that it is not visible from public vantage points does not lessen this impact.

The applicant's point that there is unmet need is supported by the above Assessment, but as set out in national policy need is unlikely to clearly outweigh harm to the Green Belt. On that basis it is considered that very little weight can be given to this point, particularly in the absence of any evidence of the applicants' unsuccessful attempts to meet their need on sites outside of the Green Belt.

It is acknowledged that the current Development Plan is not bringing forward suitable traveller sites and that it will be some considerable time before the emerging Local Plan or Neighbourhood Plans do so. As such the Council does not have a five year supply of deliverable sites, however this does not weigh in favour of granting planning permission as the proposal is not for a temporary site as it would remain at all times that Eileen McDonough and Thomas Maughan live on the site. One option which the Council can, and should, consider is whether it would be appropriate to grant a permission that is both personal to the above two individuals and also only for a specified temporary period say related to the timescale of the preparation of the Joint Local Plan and the development of any traveller site proposals that may be within it – on the grounds that there is, at least for the moment, no 5 year supply of deliverable traveller sites. Whilst that is a significant material consideration that weighs in support of the proposal, current national policy considers that there should be no presumption in favour of granting permission for such development on Green Belt land.

That the application site does satisfy some of the criteria set out in policy CSP7 of the CSS which addresses where additional gypsy and traveller pitches should be located wherever possible, does not weigh in favour of granting permission on a site within the Green Belt.

It is clear within national planning policy that if it can be demonstrated that the best interests of any child involved is met on a Green Belt site this weighs significantly in favour of development in the Green Belt. The applicant's case is that the family need a settled base where the children can be enrolled into school. That the best interests of the children would be met by their consistent education is not disputed. It would, however, appear that the children are not currently enrolled in a school in Newcastle and that when they have been it has not been at the catchment school for the site. As such

it cannot be said that the children would have to move schools if planning permission was not granted and the family were unable to live on the site or that the children would not have access to education consistently. There is therefore an absence of any evidence that this is the only site where the needs of the family would be met.

On balance it is considered that as it has not been demonstrated that granting planning permission, even for a temporary period, is in the best interests of the children allowing for the fact that planning permission is refused the family would continue to live on the side of the road, the personal circumstances of the applicants do not clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances. After balancing such planning consideration the rights set out in Article 8 of the Human Rights Act 1998, in particular Article 8(1), does not change this conclusion.

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 ASP6: Rural Area Spatial Strategy
Policy CSP7: Gypsy and Travellers

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt
Policy H1: Residential development: sustainable location and protection of the countryside
Policy N19: Landscape Maintenance Area

Other Material Considerations include:

National Planning Policy Framework (March 2012)
Planning Practice Guidance (2014)
[Planning Policy for Traveller Sites \(August 2015\)](#)
[Newcastle-under-Lyme, Stoke-on-Trent, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015](#)
Human Rights Act 1998

Relevant Planning History

In 1986 planning permission was granted, at appeal, for the siting of a mobile home on the site subject to a restriction to the occupancy of the dwelling to Mr Edwards only and any relatives or dependents living with him (reference N14847). Planning permission was granted in 1992 for a larger mobile home on the site and additional land, subject to the same restrictions on occupancy (reference N21428).

An application to remove condition 1 of planning permission N21428 was refused in 2007 (reference 07/00146/FUL). A further application to remove the condition submitted the same year was also refused and a subsequent appeal against that decision was dismissed (reference 07/00532/FUL) on the grounds that the removal of the condition would result in a permanent dwelling in the Green Belt which would constitute inappropriate development and reduce the openness of the Green Belt which would be harmful to the purpose of the Green Belt. The other considerations put forward at the appeal did not outweigh the harm to justify it on the basis of very special circumstances.

In September 2013 it was brought to the attention of the Council that the occupation of the mobile home had ceased. In January 2016 a report was brought to Planning Committee on this matter. Committee was advised that the mobile home was no longer in use as a dwellinghouse by Mr Edwards in accordance with the personal planning permission that was granted previously. In the absence of any other permission for the retention of the structure the continued siting of the mobile home on the land was considered to be a breach of planning control. It was considered that the siting of a mobile home on the site constituted inappropriate development within the Green Belt and the very special circumstances that existed at the time permission was granted no longer existed, and no other very special circumstances had been identified. The continued siting of the mobile home was considered to adversely affect the openness of the Green Belt and was contrary to one of the purposes of the Green Belt which is to safeguard the countryside from encroachment. In light of the harm that was identified the Committee resolved to take enforcement action to secure the removal of the mobile home.

An Enforcement Notice was subsequently issued which came into force on 13th July 2016. The notice requires the removal of the mobile home and associated paraphernalia by 13th January 2017.

Views of Consultees

The views of **Keele Parish Council** and the **Housing Strategy Section** have been sought, however as they have not responded by the due date it is assumed that they have no comment.

Representations

Three objections have been received indicating that there is no justification to vary the condition as proposed and that there have already been numerous unsuccessful attempts to remove/vary the condition in the past. There is insufficient evidence to demonstrate that there are the required very special circumstances to justify such inappropriate development in the Green Belt. The proposal is contrary to policy, including the emerging Keele Neighbourhood Plan 2017. In addition there is the potential for the proposal to have a significant impact on other users of the access road and a right of way is being blocked by the current owner.

Applicant/agent's submission

Supporting information has been provided which is summarised as follows:

- The enforcement notice is of no practical effect because the use alleged is not occurring and it cannot take away the lawful use of the land for the stationing of a mobile home for residential purposes.
- There has been a mobile home on the site since 1986 and the permission remains extant whilst Mr Edwards remains alive. Upon Mr Edwards' death, the stationing of the mobile home on the land will be a breach of condition but, even so, there is no requirement for the land to be restored to its former condition. The land will retain its appearance as a residential garden containing a large domestic garage. Occupation of the mobile home by a "gypsy" family is no more inappropriate than its occupation by Mr Edwards, or long-term retention of the land as residential garden.
- Long term retention of the mobile home would result in a loss of openness, a contributory factor to inappropriateness and a material consideration in its own right. Harm by reason of inappropriateness must be given substantial weight, but the additional harm by reason of loss of openness is very small.
- The development does not encroach into the countryside, or prejudice any of the other purposes of including land in the Green Belt. It does not harm the character or appearance of the surrounding area.
- The fact that residential use of the mobile home can continue for as long as Mr Edwards retains an interest in the land, albeit as a holiday home, weighs in favour of its retention for occupation by a "gypsy" family. This is particularly the case because of the identified need for additional gypsy sites in Newcastle and Stoke as identified in the Gypsy and Traveller Accommodation Assessment (October 2015).
- The accommodation needs of gypsies and travellers will be addressed through the Joint Local Plan but it is not expected to be adopted before December 2018 and the failure to meet the identified need through the development plan is a matter which weighs in favour of this proposal.
- In the meantime new sites can only come forward through the current development plan, which has not produced any new pitches in the Borough in the past 5 years. The site complies with policy CSP7 of the Core Spatial Strategy and the absence of alternative sites is a matter which weighs in favour of the proposal.
- The family's current lack of a settled site is clearly impacting on Eileen McDonough's health and on her children's education and the provision of a settled site would be of immense benefit in providing safety and stability, access to adequate health care, and regular schooling for the children.
- National policy makes clear that unmet need and personal circumstances are unlikely to outweigh harm to the Green Belt and any other harm. However, this does not mean that these factors will never outweigh harm, that they cannot carry at least equal weight to harm the Green Belt or, that there will not be other factors which tip the balance in favour of approval. The policy makes clear that the needs of the children is one such factor that can tip the balance in favour of approval.
- Recent case law (*AZ v. Secretary of State and South Gloucestershire District Council*) has established that the needs of the children are a primary consideration to be taken into account. The Council has a statutory duty to consider the effects of its decision on the

applicant's children and consider whether it is in their best interests to be living on the side of the road, or living on the application site.

- On balance the factors referred to above clearly outweigh harm to the Green Belt and any other harm. Very special circumstances therefore exist to justify the granting of planning permission.

The application form and location plan and supporting information are available for inspection at the Guildhall and on the website that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00969/FUL>

Background Papers

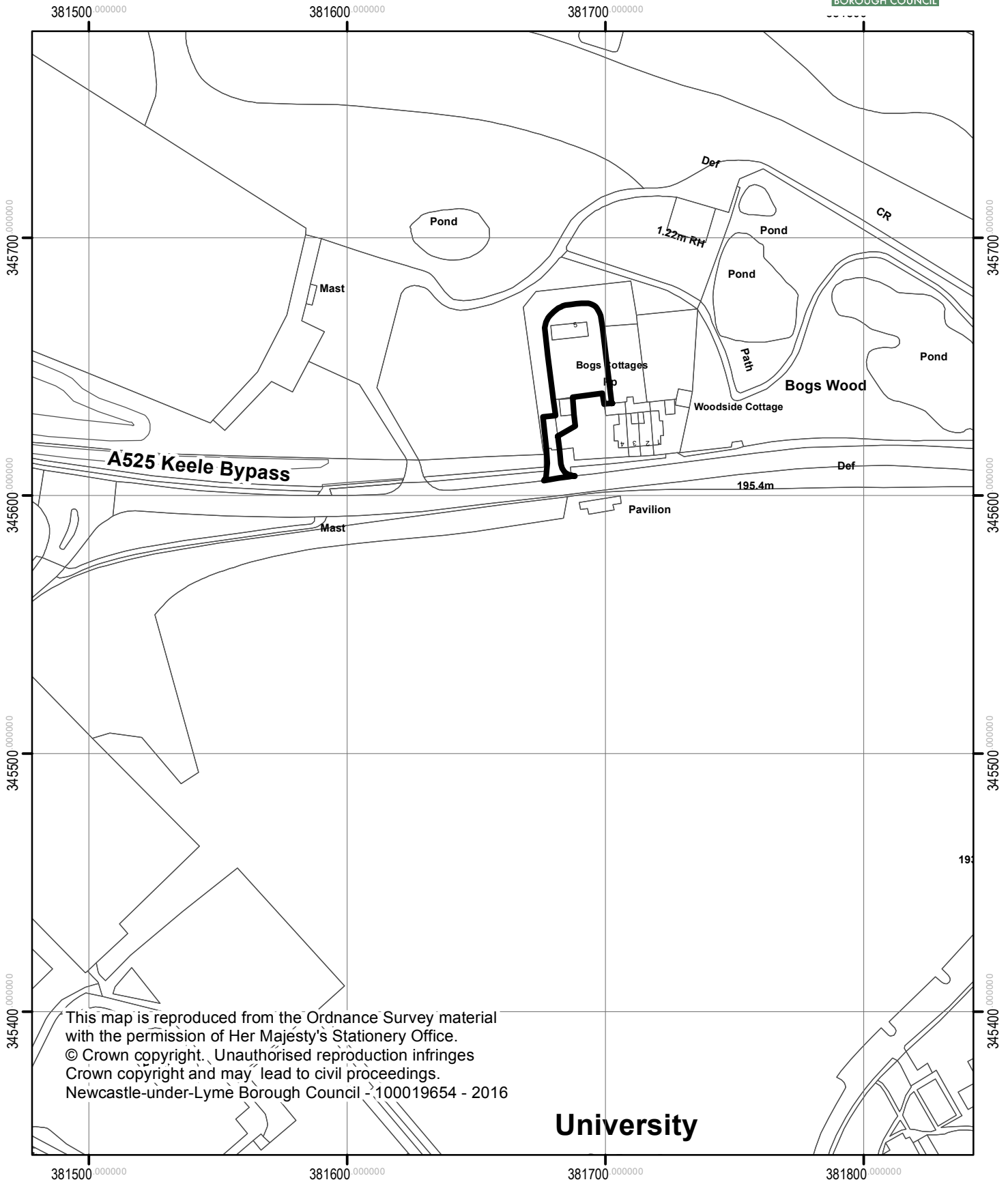
Planning Policy documents referred to
Planning files referred to

Date report prepared

15th December 2016

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16/00969/FUL
5 Boggs Cottages
Keele Road
Keele



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 Newcastle-under-Lyme Borough Council 100019654 - 2016

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APPEAL BY KNIGHTS PROFESSIONAL SERVICES LTD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR A BUNGALOW AT BUILDERS YARD, PARK ROAD, SILVERDALE.

<u>Application Number</u>	15/00879/FUL
<u>LPA's Decision</u>	Refused under delegated powers 26th November 2015
<u>Appeal Decision</u>	Appeal allowed and planning permission granted subject to various conditions
<u>Date of Appeal Decision</u>	10th November 2016

The Inspector identified that the main issue of the appeal to be the effect of the development on the character and appearance of the area. In allowing the appeal the Inspector made the following comments:-

- The appeal site is situated within the urban area of Silverdale and is within reasonable walking distance of shops and services. However, although it is adjacent to two dwellings, it is detached from the main built form of the settlement. To the south are open fields and to the north are allotments, which provide an open character to the area.
- The Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites. Policies in the development plan relating to the supply of housing are therefore not up-to-date when considered in relation to paragraph 49 of the National Planning Policy Framework (NPPF). Paragraph 14 further advises that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the NPPF. The Council confirm that, in principle, residential development in this location is supported.
- The appeal site comprises a builder's yard. Despite the presence of the materials, plant and structures on the site, its general openness and low profile makes some contribution to the openness of the overall area. The site also contributes to the gap between the industrial units to the east and the main built form of Silverdale to the west, which provides an important visual break. However, the site is not located within an area of special landscape quality.
- The proposed dwelling would be single-storey and would be positioned in the western half of the site, adjacent to the boundary with Robin Cottage. Although it would be single-storey in height it would nevertheless be more visually prominent than the existing use of the site and would result in a moderate loss of openness. However, the site is previously developed land and a single dwelling would be more compatible with adjacent residential properties than the existing builder's yard and would not encroach any further into the surrounding fields or adjacent woodland.
- Overall, the replacement of the existing use with a single-storey dwelling would not significantly erode the gap between the industrial units and Silverdale. The remaining gap would retain a sufficient degree of openness to ensure there would be an adequate visual break. Therefore the proposal would not significantly harm the character and appearance of the area. As such, it complies with Policy CSP1 of the Core Spatial Strategy, which seeks to ensure that new development is well designed to respect the character, identity and context of the area.

- The Inspector had regard to an appeal decision for an outline scheme comprising two dwellings on the site. However, the proposal before him was for a single-storey dwelling and therefore its effect on the character and appearance of the area would be markedly different to that of two dwellings.
- Concerns had been raised by local residents in respect of highway safety. However, as the proposal is for a single dwelling the Inspector did not find that the limited increase in traffic movements would represent a significant risk to the safety of pedestrians or create congestion problems..
- In addition, he did not find that the proposal would generate a significant level of noise that would be harmful to the living conditions of the occupants of the neighbouring property. Furthermore, there was no substantive evidence that the proposal would significantly compromise any wildlife value which the site may have.

The Inspector concluded as follows –

- the Government is seeking to significantly boost the supply of housing and the NPPF requires housing applications to be considered in the context of the presumption in favour of sustainable developments;
- The development would bring economic benefits through the creation of jobs albeit these would be short term. The site is an accessible one, close to services and a range of facilities in Silverdale;
- Whilst the proposal was only for a single dwelling, and therefore would make only a minimal contribution to the district's identified housing need, these modest benefits did weigh in its favour; and
- The proposal would not significantly harm the character and appearance of the area and there is no identifiable harm that would significantly and demonstrably outweigh the above benefits, when assessed against the policies in the NPPF taken as a whole, so in accordance with paragraph 14 of the NPPF, planning permission should be granted

Recommendation

That the decision be noted.

QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO

Purpose of the Report

To provide Members with a quarterly report on the exercise by the Head of Planning of the authority to extend periods within which planning obligations can be secured by (as an alternative to refusal of the related planning application).

Recommendations

a) That the report be noted

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

Introduction

The Committee, when resolving to permit an application subject to the prior entering into of a planning obligation, usually also agree to authorise the Head of Planning to extend the period of time for an applicant to enter into the Section 106 obligations if he subsequently considers it appropriate (as an alternative to refusing the application or seeking such authority from the Committee).

When this practice was first established it was envisaged that such an extension might be agreed where the Head of Planning was satisfied that it would be unreasonable for the Council not to allow for additional time for an obligation to be secured. It was recognised that an application would need to be brought back to Committee for decision should there have been a change in planning policy in the interim. It was agreed that your officers would provide members with a regular quarterly report on the exercise of that authority insofar as applications that have come to the Committee are concerned. The report does not cover applications that are being determined under delegated powers where an obligation by unilateral undertaking is being sought.

This report covers the period between 16th August 2016 (when the Committee last received a similar report) and the date of the preparation of this report (16th December 2016).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent extensions, and extensions have been agreed with respect to some 3 applications.

The Council needs to maintain a focus on delivery of these obligations – which can become over time just as important (to applicants) as achieving a prompt consideration of applications by Committee. In some cases applicants have however little immediate requirement to complete such obligations, being content to rest upon the resolution of the Committee. Expectations and requirements vary considerably. It is the issuing of the decision notice, rather than the consideration of the application by the Committee, which is the basis for the measurement of whether the decision has been made “in time” insofar as the speed of determination criterion for designation of poorly performing LPAs is concerned. As advised at the last meeting (within with the half yearly DM performance report), from the first quarter of 2017 the national performance regime will include performance with respect to applications for Major and Non-Major development.

Furthermore Local Planning Authorities are required, as part of the Planning Guarantee, to refund any planning fee paid if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the

Local Planning Authority have agreed in writing that the application is to be determined within an extended period. This provides yet another reason for the Planning Service maintaining a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

In cases where extensions of the period within which an obligation may be secured have been considered appropriate your Officer's agreement to that has normally been on the basis of that should he consider there to be a material change in planning circumstances at any time short of the signing of the final document he retains the right to bring the matter back to the Planning Committee. Applicants are also asked to formally agree a parallel extension of the statutory period within which no appeal may be lodged by them against the non-determination of the application, and in most cases that agreement has been provided. An application determined within such an agreed extended period, provided that agreement is obtained prior to the expiry of the existing statutory period, is defined as one that has been determined as being determined "in time".

Details of the applications involved are provided below:-

(1) 15/00368/OUT Land at West Avenue, Kidsgrove

This application, for outline planning permission for the erection of up to 44 dwellings, came before the Planning Committee on 21st July 2015 (at around week 9). The resolution of the Planning Committee included a time limit for the securing, by the 15th August 2015, of planning obligations relating to on-site affordable housing, and payment of contributions towards public open space and education facilities.

Members will recall that the last quarterly report reported that numerous extensions of time had been agreed with the applicant since the resolution of the committee in July 2015 and that the S106 was at an advanced stage. A further extension to the period of time within which the Section 106 agreement can be completed (until the 31st August 2016) was subsequently agreed. The agreement was not completed by the 31st but a further extension to the 2nd of September was agreed and it was completed on the 1st September and the decision on the application was issued "in time" on the 7th September 2016.

The decision was issued in this case some 70 weeks after receipt of the application. The application was received after the introduction of the Planning Guarantee however no repayment of the fee was required in this case.

(2) 16/00326/FUL site of former Woodshutts Inn, Lower Ash Road, Kidsgrove.

The application came before the Planning Committee on 19th July 2016 (at around week 8).for the variation of condition 15 of 14/00767/FUL which related to an odour abatement system. 14/00767/FUL is a permission for residential development. The resolution of the Planning Committee was to accept the variation subject to the Council's position in respect of obligations being preserved via the securing of a Section 106 agreement, by no later than 12th August, for a financial reassessment if substantial commencement of the development is not achieved by 24th March 2017, and if capable of being supported, education and public open space contributions then being made.

This matter was progressed via a deed of variation and members were informed in the last quarterly report that your Officer had agreed to extend the Section 106 period to the 12th September 2016, the applicant having in parallel agreed to extend the statutory period. This date passed without completion of the agreement. The agreement was completed on the 30th September and a decision was issued "in time" on the 3rd October 2016.

The decision was issued in this case some 19 weeks after receipt of the application.

(3) 16/00609/FUL – Land adj Sheet Anchor, Newcastle Road, Baldwins Gate

This application for permission for the erection of 7 dwellings came before the Planning Committee at its meeting on the 8th November 2016 (at around week 15). The resolutions of the Committee inter alia required that obligations securing a financial contribution of £20,601 towards public open space provision, £19,399 as a payment towards off-site affordable housing provision within the Borough, and the review of the financial assessment of the scheme, if there has been no substantial commencement within 1 year of the grant of planning permission. The resolution included the provision that the agreement should be completed by the 25th November in line with the agreed extension of time for the determination of the application.

There were a number of delays in agreeing with the applicant the wording of certain requirements of the agreement that was in accordance with the resolution of the Planning Committee. It was agreed to extend the period for the completion of the agreement until the 9th December. . By that date the matter was at an advanced stage so a further small extension of time was agreed to the 16th December 2016, the agreement was completed the decision issued "in time" on the 16th December 2016.

The decision was issued in this case some 20 weeks after receipt of the application.

Date Report prepared

16th December 2016

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