

# Public Document Pack

**Date of meeting** Tuesday, 28th February, 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 - 7)  
To consider the minutes of the previous meeting(s).
- 4 **Application for Major Development - The Homestead, Sandy Lane, Newcastle. The Wrekin Housing Trust. 16/00880/FUL** (Pages 9 - 15)
- 5 **Application for Major Development - Units 21 and 22 Rosevale Road, Crackley, Chesterton. Air Liquide Calgaz. 16/01089/FUL** (Pages 17 - 21)
- 6 **Application for Major Development - Home Farm Site, Keele University, Keele. University of Keele. 17/00012/FUL** (Pages 23 - 25)
- 7 **Application for Major Development - Sky Building. Former Jubilee Baths site, Newcastle. Westland Estates Ltd. 16/00244/FUL** (Pages 27 - 31)
- 8 **Application for Minor Development - Multi Storey Car Park, The Midway, Newcastle. Newcastle Borough Council. 16/01047/DEEM3** (Pages 33 - 37)
- 9 **Application for Minor Development - Land at Selbourne, Pinewood Road, Ashley. Mr P Marson. 16/01107/OUT** (Pages 39 - 47)

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|----|---|-----------------|
| 10 | Application for Other Development - Keele Hall, University of Keele, Keele. University of Keele. 17/00030/LBC | (Pages 49 - 53) |
| 11 | Proposed Article 4 Direction for Stubbs Walk Conservation Area  | (Pages 55 - 61) |
| 12 | Quarterly report on extensions to time periods within which Obligations under Section 106 can be entered into | (Pages 63 - 65) |
| 13 | Appeal Decision - Dwelling at 114 Mow Cop Road, Mow Cop. 16/00389/FUL   | (Pages 67 - 68) |
| 14 | Appeal Decision - Dunnocksfield House, Newcastle Road, Madeley. 16/00341/OUT                                  | (Pages 69 - 70) |
| 15 | Appeal Decision. Highdown, Eldertree Lane, Ashley. 16/00343/OUT   | (Page 71)       |
| 16 | Appeal Decision - Telephone Exchange, Blore Road, Hales. 16/00629/FUL   | (Pages 73 - 75) |
| 17 | Appeal Decision - Hazelwood Barn, Balterley Green Road, Balterley. 16/00640/COU                               | (Page 77)       |
| 18 | Appeal Decision - Land adjacent to Maerfield Gate Farm, Stone Road, Blackbrook. 16/00460/OUT                  | (Pages 79 - 81) |
| 19 | Appeal Decision - Site of former Jubilee Baths, off Brunswick Street, Newcastle. 16/00244/FUL                 | (Pages 83 - 84) |
| 20 | Application for Financial Assistance (Historic Buildings Grant) -All Saints Church, Madeley. 16/17003/HBG     | (Page 85)       |
| 21 | Application for Financial Assistance (Historic Buildings Grant) - Station House, Baldwins Gate. 16/17004/HBG  | (Page 87)       |
| 22 | Tree Preservation Order - Mersey Road, Clayton. TPO178  | (Pages 89 - 90) |
| 23 | <b>URGENT BUSINESS</b>  |                 |

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**

Thursday, 2nd February, 2017  
Time of Commencement: 6.30 pm

**Present:-** Councillor Bert Proctor – in the Chair

Councillors Burgess, Fear, S Hambleton,  
T Hambleton, Heesom, Holland, Panter,  
Pickup, Reddish, Simpson, Sweeney,  
G Williams, J Williams and Wright

Officers Guy Benson, Geoff Durham, Elaine  
Moulton, Trevor Vernon and Darren  
Walters

**1. APOLOGIES**

The Committee sent their best wishes to Councillor Northcott. The Chair would send an email on the Committee's behalf.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

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

**Resolved:** That the minutes of the meeting held on 4 January, 2017 be agreed as a correct record.

**4. APPLICATION FOR MAJOR DEVELOPMENT - 2 - 4 MARSH PARADE, NEWCASTLE. WESTLAND ESTATES LTD. 16/00630/FUL**

**Resolved:** (a) That, subject to the applicant first entering into a Section 106 agreement by 3<sup>rd</sup> March 2017 (provided that they first agree in writing, by the 8<sup>th</sup> February, to extend the statutory determination period to the 7<sup>th</sup> March ) to secure a review mechanism of the scheme's ability to make a policy compliant contributions to public open space and the provision of policy-compliant on-site affordable housing, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution and the provision of such affordable housing if found financially viable, the application be permitted subject to the undermentioned conditions:

- (i) Standard Time limit for commencement of development
- (ii) Approved Plans
- (iii) Submission of Materials
- (iv) Window reveal specification

- (v) Roof Specification Plans
- (vi) Boundary Treatments
- (vii) Approval of Tree Protection Proposals
- (viii) Arboricultural Method Statement
- (ix) Landscaping Scheme (including replacement tree planting)
- (x) Hard Surfacing
- (xi) Provision of Parking and Turning areas
- (xii) Construction Method Statement
- (xiii) Visibility Splays
- (xiv) Existing Access Permanently Closed
- (xv) Secure Cycle Storage
- (xvi) Design Measures to Secure Noise Levels
- (xvii) Ventilation Provision/ Arrangements
- (xviii) Full Land Contamination
- (xix) Drainage Details
- (xx) Bat Mitigation Measures

- (b) Should the matters referred to above not be secured within the above period, that the Head of Planning given delegated authority to refuse the application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of policy compliant affordable housing and financial contribution towards public open space.

**5. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF ECCLESHALL ROAD, LOGGERHEADS. NEWCASTLE BOROUGH COUNCIL. 16/00866/DEEM4**

**Resolved:**

- (A) That, subject to the applicant (providing they first agree in writing, by noon on the 3<sup>rd</sup> February, to extend the statutory determination period to the 7<sup>th</sup> March 2017) entering into a Section 106 obligation by 3<sup>rd</sup> March 2017 securing the following:
- (i) A management agreement for the long-term maintenance of the open space on the site
  - (ii) A contribution of £99,732 (on the basis that the development as built is for the full 55 units and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy), towards the provision of education places at Madeley High School
  - (iii) In perpetuity, provision of 25% of the dwellings on-site as affordable units,

The application be permitted subject to the undermentioned conditions:

- (i) Standard time limits for submission of applications for approval of reserved matters and commencement of development

- (ii) Reserved matters submissions
- (iii) Approved plans
- (iv) Construction hours
- (v) Construction management plan
- (vi) Waste storage and collection arrangements
- (vii) Arboricultural Impact Assessment
- (viii) Arboricultural Method Statement
- (ix) Tree protection plan
- (x) Full details of site access including footway along the site frontage
- (xi) Layout of site including disposition of buildings and provision of adequate parking and turning within the curtilage
- (xii) Visibility splays
- (xiii) Foul and surface water drainage scheme
- (xiv) Any reserved matters application to comply with the Design and Access Statement
- (xv) Recommendations of Phase 1 Habitat Survey to be complied with including buffer zone
- (xvi) Provision of information signs and details to new residents regarding SSSIs
- (xvii) Dwellings to be a maximum of 2½ storeys in height

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

**6. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF FESTIVAL WAY, STOKE ON TRENT. GT ENERGY UK LTD. 16/00893/FUL**

**Resolved:** (a) That the Head of Planning given the delegated authority to secure a Section 106 obligation, if required, by a date yet to be identified, to ensure that monitoring of any seismic activity associated with the development is carried out appropriately and, subject to the completion of any such Section 106 obligation, the application be permitted subject to the undermentioned conditions:

- (i) No extraction of geothermal water to commence until the specific details of the protocol and the threshold levels for the implementation of the threshold-based traffic light system associated with the monitoring of seismic activity have been submitted and approved by the Local Planning Authority.

- (ii) Operation of the energy centre and extraction of geothermal water to proceed in accordance with the approved protocol and threshold levels unless otherwise agreed by the Local Planning Authority or other similar measures that ensure consistency with the decision of the City Council in respect of application 60407/FUL.
  - (iii) Development to be carried out in all other respects in accordance with the submitted information including the identified mitigation measures.
  - (iv) Any other conditions that are reasonable and appropriate to this development that ensures consistency with the decision of the City Council in respect of application reference 60407/FUL.
- (b) In the event of such an obligation being considered necessary by the Head of Planning and not being forthcoming by the date referred to above (a) that the Head of Planning be given delegated authority to refuse the application on the grounds that insufficient protection has been secured against seismic activity; unless he considers appropriate to extend that period.

**7. APPLICATION FOR MAJOR DEVELOPMENT - AUDLEY WORKING MENS CLUB, NEW ROAD, BIGNALL END. SANDYCROFT CONSTRUCTION LTD. 16/01036/FUL**

- Resolved:** (A) That, subject to further consideration of the design of the side elevation of plot 1 which faces New Road; the applicant first entering into a S106 obligation, by 3<sup>rd</sup> March 2017, to preserve the Council's position in respect to obligations entered into in respect of 15/00692/FUL which secured a review mechanism of financial contributions if the development is not substantially commenced within 12 months from the date of the decision, the application be permitted subject to the imposition of all other the other conditions attached to planning permission 15/00692/FUL as far as they remain relevant including the undermentioned conditions:
- (i) Standard Time limit for commencement of development
  - (ii) Approved plans
  - (iii) Submission and approval of external materials
  - (iv) Boundary treatments
  - (v) Prior submission and approval of a landscaping scheme
  - (vi) Removal of permitted development rights for hardstandings within all front gardens
  - (vii) Removal of permitted development rights for extensions, roof alterations and outbuildings for all plots
  - (viii) Provision of access prior to occupation
  - (ix) Provision of parking and turning areas
  - (x) Surfacing details

- (xi) Access road shall remain un-gated
- (xii) A surface water interceptor
- (xiii) Construction Method Statement as approved
- (xiv) Tree Protection (overhanging trees)
- (xv) Tree pruning (overhanging trees)
- (xvi) Design measures to secure noise levels
- (xvii) Construction/ Demolition Hours
- (xviii) Drainage – foul and surface water
- (xix) Full contaminated land

(B) That, should the matters referred to in (A) above not be secured within the above period, that the Head of Regeneration and Planning Services given delegated authority to refuse the application on the grounds that without a review mechanism there would be no up to date justification for a development with no policy compliant financial contributions towards public open space and education.

8. **APPLICATION FOR MAJOR DEVELOPMENT - TADGEDALE QUARRY, ECCLESHALL ROAD, LOGGERHEADS. RENEW LAND DEVELOPMENTS LTD. 15/00015/OUT**

**Resolved:** That the decision of your officer, following consultation with the Chair, that the Council as the Local Planning Authority should not pursue the obtaining of a planning obligation requiring the payment of a financial contribution towards primary school places, be noted.

9. **APPEAL DECISION - LOWER MILL HOUSE, FURNACE LANE, MADELEY. 16/00489/FUL**

**Resolved:** That the decision be noted.

10. **TREE PRESERVATION ORDER - 14 HAWTHORNE GARDENS, TALKE. TPO177**

**Resolved:** That Tree Preservation Order Number 177 be confirmed with amendments and the owner of the site be informed accordingly.

11. **URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR BERT PROCTOR**  
**Chair**

Meeting concluded at 7.40 pm

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**THE HOMESTEAD, MAY PLACE, NEWCASTLE  
THE WREKIN HOUSING TRUST**

**16/00880/FUL**

The application seeks full planning permission to vary condition 2 to enable alterations to the design of the roof over the kitchen area and terraced area balustrading at the Homestead extra care facility at May Place, Brampton Road.

The site lies within the urban area close to Newcastle town centre. The site is adjacent to the Brampton Conservation Area.

The application is retrospective as the works have already been done.

**The statutory 13 week determination period for the application expired on the 23<sup>rd</sup> January 2017 but the applicant has agreed to extend the statutory period until 3<sup>rd</sup> March 2017.**

## **RECOMMENDATION**

### **(1) REFUSE for the following reason:**

**The retention of the metal railing balustrading would not provide sufficient noise mitigation for the terraced area from the traffic noise on Brampton Road/ Sandy Lane. As such, the railings are considered to conflict with the aims and objectives of the National Planning Policy Framework 2012, specifically paragraphs 69 and 123, which concern the promotion of healthy communities and avoiding adverse noise impacts.**

### **(2) Should the metal railing balustrading not be removed and replaced with the permitted glass balustrading within 8 weeks of the decision on this application; or a further planning application for alternative balustrading, supported by a noise assessment that demonstrates appropriate noise levels, is not submitted within the same period the Council's solicitor be authorised to issue enforcement and/or any other notices and to take and institute on behalf of the council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure the removal of the balustrading within 3 months.**

## **Reason for recommendation**

The alternative metal balustrading to the permitted glass balustrading would not provide adequate noise mitigation from the traffic noise on the Brampton/ Sandy Lane and roundabout, contrary to the aims of the National Planning Policy Framework which seeks to create healthy communities and also to ensure adverse noise impacts to developments are avoided.

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

The feedback of the consultees was provided to the applicant's agent during the application process, however the additional information provided does not address the concerns of the Environmental Health officers. This is considered an unsustainable form of development that does not comply with the aims and objectives of the National Planning Policy Framework.

## **KEY ISSUES**

Full retrospective planning permission is sought for the variation of condition 2 to enable minor alterations to the design of the roof over the kitchen area and terraced area balustrading relating to planning application 14/00476/FUL for the 65 apartment extra care scheme with allied facilities.

The ballustrading that was originally permitted was glass screening, however metal railings have been installed instead of the glass, which is not in accordance with the plans.

The application as initially submitted also included a variation of Condition 30 - retention of hardstanding adjacent to Sandy Lane, however this element of the application was withdrawn and therefore no longer forms a part of the planning application.

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

- The design of the roof over the kitchen area
- The design and noise implications of the amended balustrading

#### The design of the roof over the kitchen area

The National Planning Policy Framework attached great importance to the requirement for good design and states that good design is indivisible from good planning and a key aspect of sustainable development

Policy CSP1 of the Core Spatial Strategy complements the requirements for good design in the NPPF, stating that new development should be well designed to respect the character, identity and context of Newcastle and Stoke's unique townscape and landscape.

A section of the rear element of the butterfly roof over the kitchen has been removed which exposes some of the plant which was previously hidden. The plant which is to some extent now exposed will not be visible from any public views outside of the site and it is considered that these alterations to the roof are very minor and as such are acceptable and raise no new planning issues. It is compliant with Policy CSP1 of the Core Spatial Strategy and with the aims and objectives of the National Planning Policy Framework 2012.

#### The design and noise implications of the amended balustrading

The permitted balustrading was for reinforced glass barriers around the terraced area, however metal railings have been installed. In design terms, the railings are considered acceptable, however the Environmental Health Division have raised concerns regarding the loss of the noise attenuation that the glass balustrading would have provided to the terraced area for the residents of the care home.

As part of their submission, an extract from one of the acoustic reports for the scheme has been referred to by the applicant, which states that "noise levels on the terrace area to the west of the site are expected to be below 55dB, assuming that current site topography providing partial screening from Brampton Road remains in place. As such noise levels are expected to be below the criterion given by the World Health Organisation for serious annoyance. The supporting information states that people sitting or standing on the terrace will not be shielded acoustically due to the height of the edge guarding being below shoulder/ head level, that is 1100mm high. The change of the 1100mm high glass balustrading to a vertical metal bar railing design therefore will not significantly affect the acoustic levels of anyone using the outdoor terrace space whether they are sitting or standing."

The Environmental Health Division (EHD) advises that the acoustic consultant's report highlights that the garden and terrace areas will need localised acoustic treatment to provide for appropriate noise levels due to high levels of road traffic noise. Accordingly condition 16 was imposed on permission 14/00476/FUL. Environmental Health officers consider that the terraced area balustrading now installed will not provide for appropriate noise levels and object to this element of the application.

In light of this, and in the absence of any alternative balustrading as requested by EHD, it is concluded that this element of the application is unacceptable and should be refused.

As the balustrading is already installed, it is necessary to consider whether any appropriate enforcement action is required. In this case, it is considered that it is appropriate in the first instance to encourage the developer to implement the scheme as permitted, with the reinforced glass balustrading, within 8 weeks of this committee decision. Alternatively a further planning application should be submitted within the same period for a different balustrading to that installed and that permitted, accompanied by a noise assessment to demonstrate that satisfactory noise levels will be achieved in this area, which is considered to be the main outside space for the majority of the residents.

Should neither be forthcoming, in light of the concerns expressed by EHD that appropriate noise levels will not be achieved therefore affecting amenity, appropriate enforcement action should be undertaken requiring the metal railing balustrading to be removed and the glass balustrading installed in line with the original planning permission granted.

## **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 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

Newcastle-under-Lyme Local Plan 2011 (NLP)

None relevant

### **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 SPD (September 2007)

Space Around Dwellings SPG (SAD) (July 2004)

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

Relevant Planning History

14/00476/FUL Permitted 65 apartment extra care home with allied facilities

Views of Consultees

### **Environmental Health Division – Ballustrading**

The developer's report highlights that the garden and terrace areas will need localised acoustic treatment to provide for appropriate noise levels due to high levels of road traffic noise. Accordingly condition 16 was imposed on permission 14/00476/FUL. The proposed terraced area balustrading will not provide for appropriate noise levels and as such they object to this element of the application and would recommend that a revised scheme is put forward for consideration which incorporates appropriate acoustic treatment and that an application is made to also discharge condition 16.

Roof over kitchen area

No objections to the amended roof over the kitchen area.

**Landscape Division** - No objection to the alterations to the design of the roof, however express concern about the retention of the hardstanding.

Representations

None received

Applicant/agent's submission

The application plans and form are available to view at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00880/FUL>

Background Papers

Planning File  
Development Plan

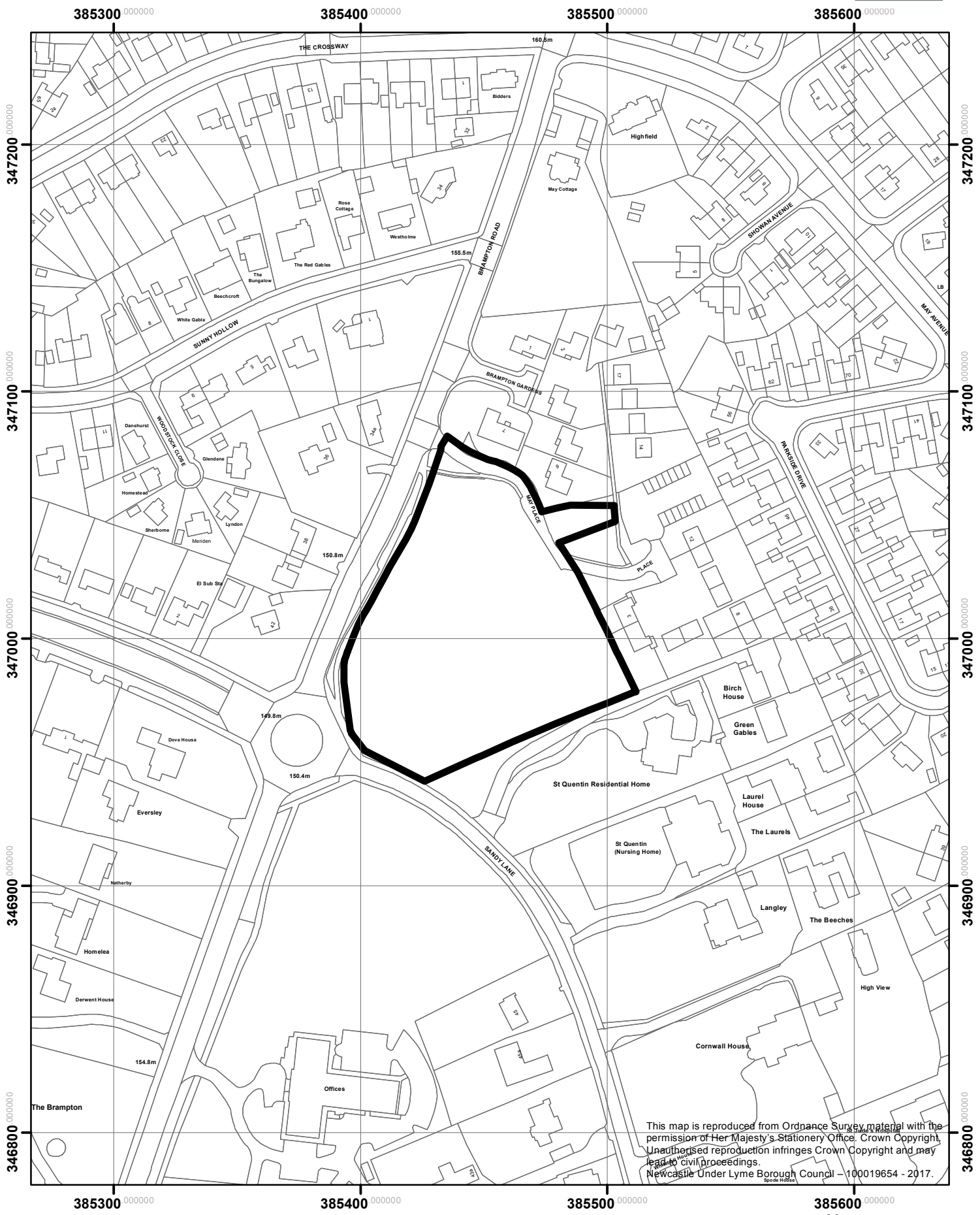
Date report prepared

14<sup>th</sup> February 2017

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# The Homestead, May Place, Newcastle

## 16/00880/FUL



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 Newcastle Under Lyme Borough Council - 100019654 - 2017.

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**21 AND 22 ROSEVALE ROAD, CRACKLEY  
MR CHRIS STREET**

**16/01089/FUL**

The application is for the change of use of Units 21 and 22 Rosevale Road from B8 (storage and distribution) to a mixed B2 (general industrial) and B8 use.

The application site is located within the existing Parkhouse Industrial Estate, as indicated by the Local Development Framework Proposals Map.

**The 8 week period for the determination of this application expires on 20<sup>th</sup> March 2017.**

## **RECOMMENDATION**

**PERMIT with the following conditions:**

- 1. The provision of the parking, servicing and turning areas in accordance with the approved plans prior to use, and retained for the lifetime of the development**
- 2. Prior approval of secure weatherproof parking for a minimum of 8 cycles, to then be implemented prior to the use commencing and retained for the life of the development**
- 3. Prior approval of an odour assessment, and an odour management and response plan**
- 4. Prior approval of a noise assessment, and implementation of mitigation measures**

## **Reason for Recommendation**

The proposed change of use in this existing industrial area is acceptable; however given the nature of the proposed use and proximity to residential properties, odour and noise assessments and management plans are required to ensure the use has an acceptable environmental impact. The proposed level of car parking is considered acceptable and in accordance with Policy T16 of the Local Plan, and overall, provided the recommended conditions are included on any approval, the proposal is considered to comply with the aims and objectives of the National Planning Policy Framework 2012.

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

Further information relating to the car and cycle parking at the site was requested and received during the course of the application, to ensure compliance with the Development Plan and National Planning Policy Framework. The development is considered to represent a sustainable form of development and therefore accords with the aims and objectives of the National Planning Policy Framework 2012.

## **KEY ISSUES**

Full planning permission is sought for the change of use of the two units which are in B8 storage and distribution use to accommodate manufacturing and distribution, which is a mixed B2 and B8 use. The units are located on the Parkhouse Industrial Estate, an existing industrial area, as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of the application are considered to be:

- The principle of the change of use
- The impact of the change of use on highway safety issues
- The environmental impact of the proposal

The principle of the development

The proposal is to change the use of the units from B8 (warehousing and distribution) to a mixed B2 (light industrial) and B8 use. The applicant is Air Liquide Calgaz, and their specific proposals for the site are to produce and distribute small calibration gas mixtures.

The property is located within the Parkhouse Industrial Estate, which is an established industrial area. The introduction of a further general industrial use in this location is considered acceptable and compliant with the aims and objectives of the National Planning Policy Framework.

#### The impact of the change of use on highway safety issues

The existing access to the site will be utilised. A car parking and cycle parking plan was requested and provided during the course of the application, which shows that 51 car parking spaces and 5 cycle parking spaces are currently provided at the site. It is considered that this level of parking is acceptable for the proposed use and it is noted that the Highway Authority has no objections in this regard. They have, however, requested an additional 3 weatherproof cycle parking spaces, which is considered to be a reasonable requirement and can be secured via condition.

Therefore, provided that conditions are included to ensure the provision of the parking, servicing and turning facilities prior to the use commencing, and to seek details of a total of 8 weatherproof cycle parking spaces, to then be provided and retained for the lifetime of the development, the proposal would have an acceptable impact upon highway safety and would comply with the aims and objectives of the National Planning Policy Framework 2012.

#### The environmental impact of the proposal

The proposal would involve the production of calibration gas mixtures, and proposes several items of external plant which will be in use from 6:30am until 10:30pm. Due to the presence of residential units approximately 200 metres away there is therefore the potential for disturbance arising from noise and in light of that the Environmental Health Division has requested a condition is applied to require a noise assessment.

Further, Environmental Health officers have commented that historically, operations of this type carried out upon Parkhouse East generated a large number of complaints relating to odours, typically as a result of certain elements of the gas mixtures and arising from the disposal of returned residual gases. As this proposed development is to be located much closer to other commercial and residential units they request that a condition is applied to require an assessment of potential odour impacts arising from the proposed development and submission of an odour management and response plan for approval and implementation.

Given the proximity of the residential properties, these two conditions are considered reasonable and necessary in planning terms to ensure the proposed use does not cause unacceptable noise or odour issues.

## **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 (adopted 2009)

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP3: Spatial Principles of Movement and Access  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy T16: Development – General Parking Requirements  
Policy T18: Development – servicing requirements

### **Other Material Considerations**

National Planning Policy

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

Supplementary Planning Guidance/Documents

Developer Contributions Supplementary Planning Document (SPD) (September 2007)

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

Relevant Planning History

05/01235/COU Permitted Change of use from general industrial use (use class B2) to use for parcels sorting and distribution (use class

06/00331/FUL Permitted Variation of condition 1 of permission 05/01235/COU so as to allow for articulated vehicles to egress onto Rosevale Road

Views of Consultees

**Environmental Health** – The proposed development looks to make use of several items of external plant and it is intended to operate from 6.30am until 10.30pm. Due to the presence of residential units approximately 200 metres away, it is recommended that a condition is applied to require a noise assessment.

Historically, operations of this type carried out upon Parkhouse East generated a large number of complaints relating to odours, typically as a result of use of mercaptans and hydrogen sulphide within gas mixtures from the disposal of returned residual gases. As this proposed development is to be located much closer to other commercial and residential units, a condition is requested to require an assessment of potential odour impacts arising from the proposed development and submission of an odour management and response plan for approval

**Highway Authority** – No objections subject to the parking, servicing and turning areas being provided in accordance with the approved plans prior to the commencement of the use, and prior approval of weatherproof parking for a minimum of 8 cycles, to be provided prior to occupation of the development and retained for the lifetime of the development.

Representations

None received

Applicant/agent's submission

The application is accompanied by a parking and cycle parking layout, external equipment details and a supporting statement, as well as the requisite planning application form and plans.

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/16/01089/FUL>

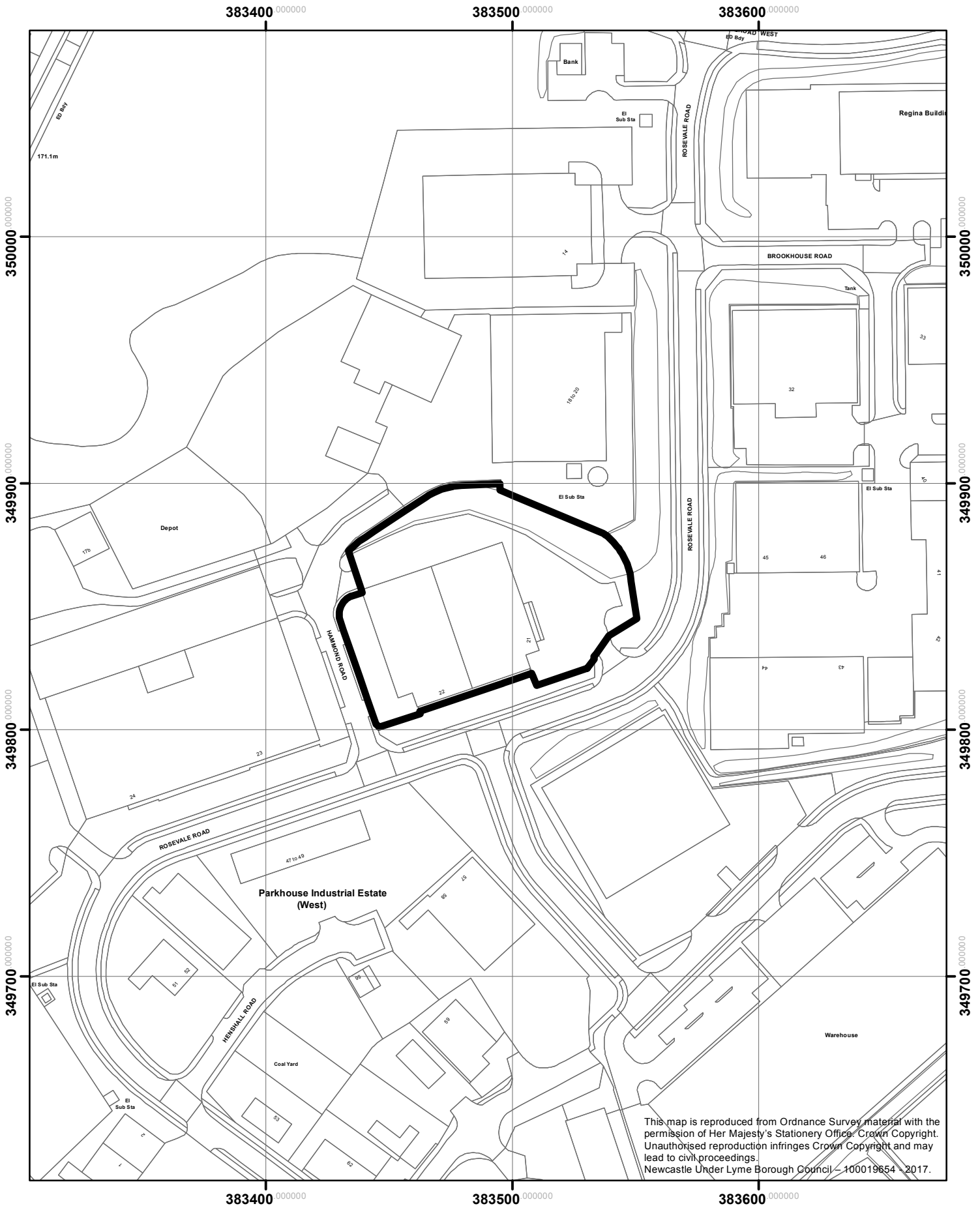
Background Papers

Planning files referred to  
Planning Documents referred to

Date report prepared

8<sup>th</sup> February 2017

# Units 21 And 22, Rosevale Road, Crackley 16/01089/FUL



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**PLOT 9 HOME FARM, PHASE 2, KEELE UNIVERSITY  
KEELE UNIVERSITY AND UPP PROJECTS LIMITED**

**17/00012/FUL**

The above application has fairly recently been received.

The application is for the creation of a temporary car park with associated works. The expected capacity of the car park is of the order of 400 vehicles and the intended duration of the car park is 5 years. This application will come before the Planning Committee for determination in due course. At the present time the proposal is to bring it before a Planning Committee which is to be held on the 21<sup>st</sup> March 2017.

## **RECOMMENDATION**

**That Members agree to hold a site visit in connection with this application at the same time as they undertake a site visit in connection with applications 16/01014/FUL, 16/01015/FUL and 16/01016/FUL**

### **Reason for recommendation**

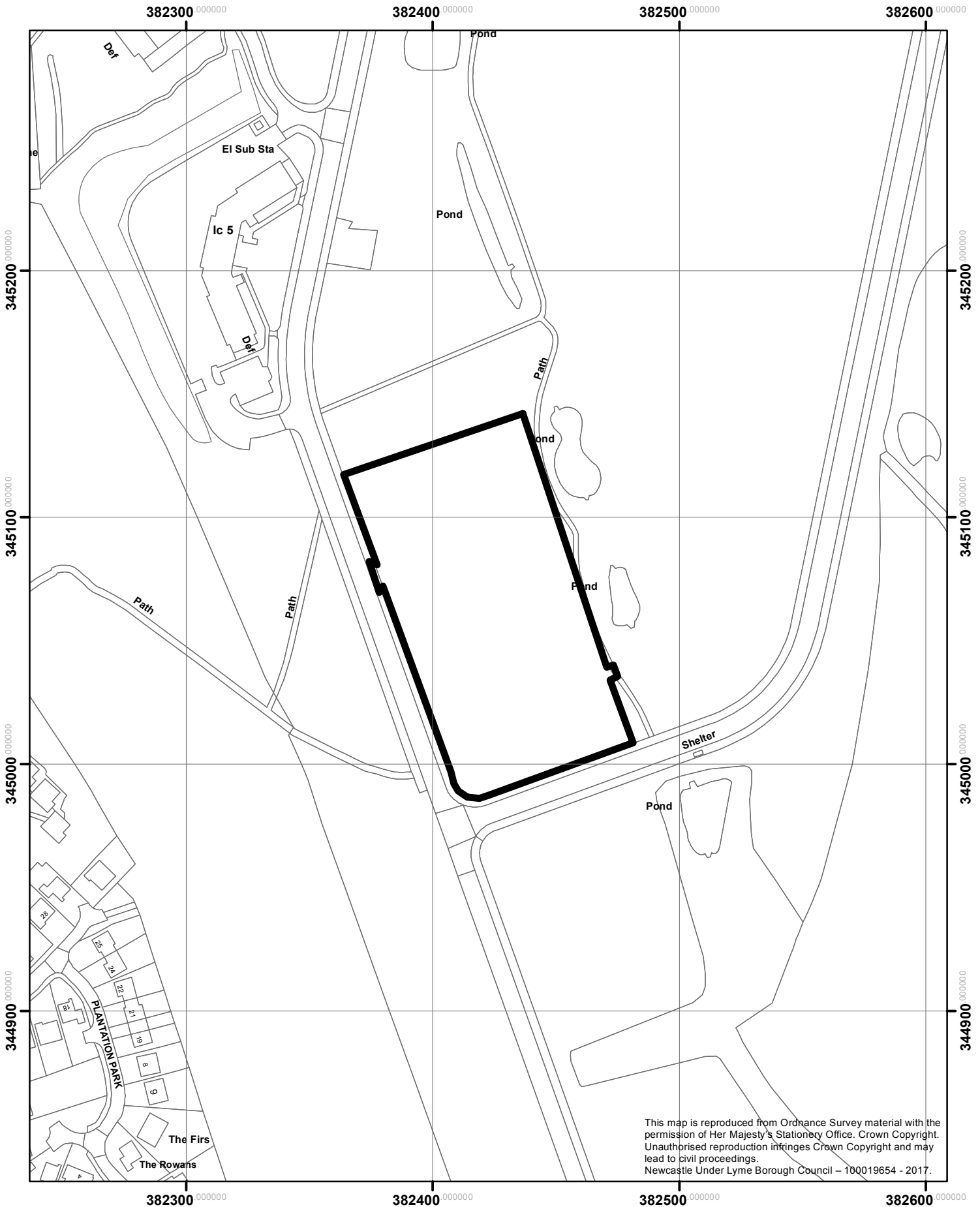
The Committee have decided already, at the meeting on the 4<sup>th</sup> January, to hold a site visit with respect to applications 16/01014/FUL, 16/01015/FUL and 16/01016/FUL (relating to Barnes, Lindsay and Horwood Halls respectively). The current proposal is that Committee site visit will take place on the 18<sup>th</sup> March following the publication of the agenda for the additional Planning Committee meeting that is intended to be held on the 21<sup>st</sup> March. It is currently your officer's intention to bring a report on the car parking application 17/00012/FUL to the same meeting, in that the car park application is related to the wider accommodation enhancement and improvement project. This will mean that the Committee can a) be made aware of the car park application and the key issues that it raises, and b) consider its decision on that application in the light of the decision it makes on the three applications.

In the circumstances it makes sense for the Planning Committee to include a visit to the location of the proposed car park as part of their site visit to the University. Member agreement to this is sought and members are reminded that they have agreed that a failure to attend the site visit will mean that the member concerned will not be able to either take part in the debate on or vote on the determination of these applications, and that too will apply to application 17/00012/FUL if the recommendation is accepted.

Background Papers : Planning application files referred to  
Date Report Prepared : 15<sup>th</sup> February 2017

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**SKY BUILDING, FORMER JUBILEE BATHS SITE, BRUNSWICK STREET/ NELSON PLACE**  
**WESTLAND ESTATES LIMITED** **16/00244/FUL**

The above application was for planning permission for the construction of a 273 room student development with associated communal area and car parking. The application was refused by the Planning Authority on 24<sup>th</sup> May 2016 (the decision notice being issued on the 1<sup>st</sup> June 2016) and an appeal was then lodged against that decision.

**RECOMMENDATION**

**That the decision of your Officer, following consultation with the Chair, that the Council should agree to enter into a Section 106 agreement, be noted**

**Reason for Recommendation**

The matter was urgent, in the light of the deadline imposed by the Planning Inspectorate, and an immediate decision was required which was then taken following consultation with the Chairman. The basis for the decision is explained in the report below

**KEY ISSUES**

As Members may perhaps recall, the Planning Committee refused at its meeting on the 24<sup>th</sup> May 2016 an application (16/00244/FUL) to increase the number of units within the Sky Building on the former Jubilee Baths site (from the already permitted 244 to 273). The decision of the Committee was to refuse the application on the ground that *“the proposed development will result in the loss of residential amenity for occupiers of properties in nearby streets as a result of on-street parking, congestion and pavement parking arising from the development due to the inadequate provision of parking spaces within the development site to address parking demand. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework (2012) and the Ministerial Statement of March 2015.”*

When the original scheme for 244 units had been approved by the Local Planning Authority (ref 15/00166/FUL) this followed the entering into, with the approval of the Planning Committee, of an agreement by the developer and others under Section 106 of the Act which secured both the payment of a sum of money to upgrade a public open space in the vicinity of the development and the payment of a sum of money to pay for the introduction, if justified by the results of 2 on-street parking surveys, of a Traffic Regulation Order (i.e. a residents parking scheme).

In recommending application 16/00244/FUL for approval your officers' advice had been that before any such approval was issued the applicant should be required to enter into a Section 106 obligation by no later than 30<sup>th</sup> June , to secure the following:

- (i) a financial contribution to the enhancement and maintenance of an area of public open space of £219,172 (a greater sum than previously secured, reflecting the additional number of units) and a travel plan monitoring fee of £2,200.
- (ii) a financial contribution of £50,000 to be used to fund a Resident Parking Zone in the event that it has been demonstrated (through surveys secured by condition) that the development has resulted in on street parking problems

The Committee did not, in its decision to refuse the application on the 24<sup>th</sup> May 2016, refer to a lack of such obligations being “on the table”.

An appeal was then lodged against the decision on 16/00244/FUL. In completing and submitting the appeal form in late September the appellants' agents indicated that it was intended to submit a planning obligation with the appeal. In their Statement of Case, in support of their appeal and submitted at the same time, the agents indicated that “the applicant will enter into discussions with the Council with regard to Contributions as part of the planning application process” – even though an appeal had by then been lodged.

In their acknowledgement of the appeal, sent to the principal parties on the 9<sup>th</sup> November, the Planning Inspectorate (PI) stated that if it was intended to submit a planning obligation the party

concerned should read the PI's guidance and a certified copy of such an obligation should be submitted to the PI by the 28<sup>th</sup> December.

On the 14<sup>th</sup> December officers submitted the Council's Statement of Case with respect to the appeal and addressed the issue of the lack of a new planning obligation. The basis for the obtaining of the original Section 106 agreement was explained, and the case was made, in the Statement, that given that there had been no changes in planning circumstances it remained the case that in principle such obligations would comply with CIL Regulations and the adopted Developer Contributions SPD and that *"the development should only be granted planning permission if an appropriate planning obligation is entered into which secures all of the same obligations as already secured subject to an increase in the contribution to improvements to the Queens Gardens to reflect that the increased number of students (an increase to £219,172 compared to the £198,716 already secured)"* and that *"In the absence of such an obligation the appeal should be dismissed"*.

The appellant's agents received, from the Planning Inspectorate, on the 15<sup>th</sup> December, a copy of the LPA's Statement of Case and they then submitted their "Final Comments". In these final comments dated 23<sup>rd</sup> December the agents stated their clients had informed them that they intended to submit a Section 106 agreement for consideration as part of the appeal.

On the 16<sup>th</sup> January your officers became aware that the Planning Inspectorate had now given the appellants what they described as a final deadline of 25<sup>th</sup> January to submit any planning obligation (that was to be taken into account in the consideration of the appeal). Your officers were advised, by the Planning Inspectorate, that there would be no further extension of this period. The agents sought to progress this, some 9 days before the 25<sup>th</sup> January.

The authority to enter into a section 106 agreement rests with the Planning Committee (Planning functions part of Appendix 5 to the Constitution)

The decision about whether or not to enter into a Section 106 agreement is thus for the Planning Committee to make. Appendix 4 of the Council's Constitution in the section headed Matters of urgency in the General Instructions Section indicates that in the event of a matter which is not delegated by the Officer Scheme of Delegation requiring action where there is no scheduled meeting where the matter can be considered by the appropriate Committee (and where the matter does not make or change policy), ....an Executive Director ( having consulted with the Leader or a Cabinet Portfolio holder or the Chair of the appropriate Committee (or in their absence the Vice Chair) shall have delegated authority to take such action, and the action taken be shall be reported to the next available meeting of the..... Committee as appropriate.

Acting on the basis that unless the Planning Inspectorate received a planning obligation by the 25<sup>th</sup> January no account would be taken of that obligation and being of the view that it was in the public interest for the Council to enter into such an agreement, your Officer consulted with the Chairman -the next Planning Committee then being on the 2<sup>nd</sup> February (i.e. after the 25<sup>th</sup> January)

One alternative open to the appellant was to submit a Unilateral Undertaking to the Planning Inspectorate. A unilateral undertaking however cannot bind parties who are not signatories to it, and accordingly from the appellant's perspective it was unlikely to be an attractive prospect, particularly as the existing agreement contains provisions requiring both the repayment with interest (by the Borough Council) of the two parts of the public open space contribution (in the event of them not being spent within 5 years and 15 years respectively) and by the County Council, again with interest, of the Residents Parking Zone Contribution should that sum not be expended within 5 years from the date of a parking survey. Your officer in principle wished to see these obligations continued in any new obligation, in the interests of an appropriate audit trail and the transparency of obligations associated with this development.

The urgency of the decision arose entirely as a consequence of the appellant's dilatoriness - however there were grounds to consider that it would be desirable, from a public interest perspective, for a decision to be made immediately upon this matter.

First of all the appellant had an alternative (a fall back) which they could pursue, if the decision were not made - the preparation and submission by the 25<sup>th</sup> January to the Planning Inspectorate of a

Unilateral Undertaking - this would not tie the recipients of the contributions (the Borough Council and the County Council) to expend the money for any stated purpose and such expenditure would be entirely a matter of their goodwill.

Secondly it was possible that the Inspector might side with the appellants with respect to the reason for refusal of the original application, but consider a planning obligation was justified . This would mean that a further application for planning permission would need to be submitted this time with a Section 106 obligation, to no public benefit at all (and indeed at a cost to the public purse as such an application could potentially be fee exempt).

Thirdly the Council had a particular interest in receiving the public open space contribution (which is to be put towards the enhancement of the Queens Gardens) promptly so a swift resolution of this matter was in the public interest.

The decision to be made was not one that made or changed policy. The Planning Committee previously determined that the 244 unit to be acceptable required such obligations (and they were secured by the original S106 agreement), the only difference is the amount payable to reflect the increased number of units.

On the 27<sup>th</sup> January the appellants obtained a further extension from the Planning Inspectorate – this time to the 31<sup>st</sup> January – a date which still fell before the 2<sup>nd</sup> February Planning Committee.

On that same day following negotiations with the appellant's solicitor the Borough Council signed an agreement. However the appellant did not obtain the signatories of the other parties involved and the 31<sup>st</sup> January passed without a completed obligation being submitted to the Planning Inspector

The action taken (the authorising of the signing of the agreement) is reported to the Planning Committee as required.

There is a postscript to this matter. On the 13<sup>th</sup> February the Planning Inspectorate issued their decision on the matter. A separate report elsewhere on this agenda is provided on that decision, but members may wish to note that the Inspector with respect to the issue of the agreement wrote as follows

*“In the appeal form the appellant states the intention to submit a planning obligation under Section 106 of the Town and Country Planning Act , 1990, as amended. This has not been submitted by the time of my site visit (on 3<sup>rd</sup> January 2017). I allowed additional time for an executed copy of an obligation to be submitted. On the 31<sup>st</sup> January 2017 a draft obligation was provided by the appellant but the document was not signed or dated. The obligation therefore has no legal effect. Under the approach set out in the Planning Inspectorate's Procedural Guidance, I am not required to delay the issuing of a decision to allow further time for a legally binding planning obligation to be submitted. I have therefore determined this appeal on the basis of the information before me”*

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 CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy IM1: Planning obligations

**Other material considerations include:**

National Planning Policy Framework (on planning obligations)

National Planning Practice Guidance (on planning obligations, and on appeals )

**Supplementary Planning Guidance/Documents**

Developer Contributions SPD (September 2007)

Background Papers

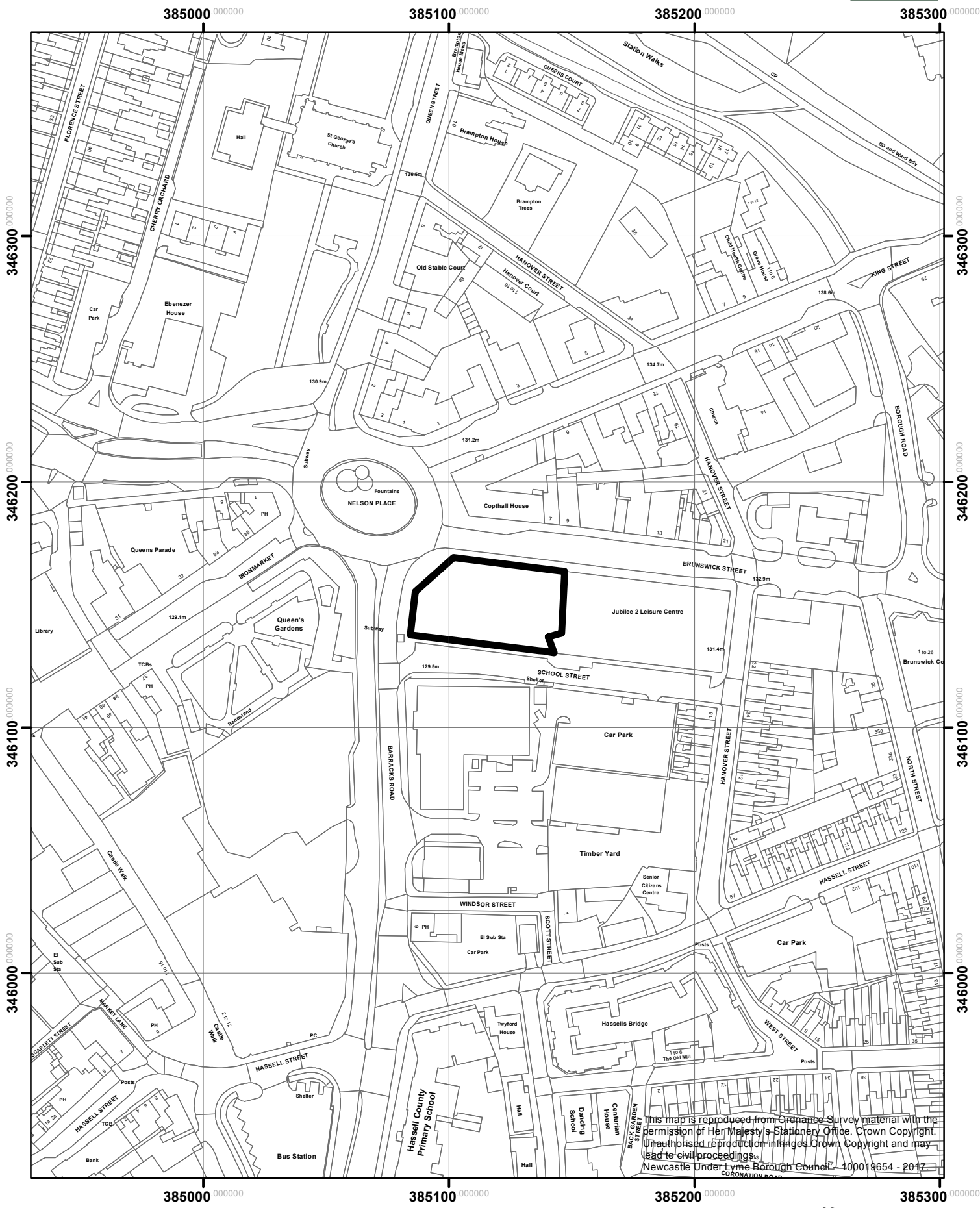
Planning file

Planning documents referred to

Date report prepared

17<sup>th</sup> February 2017

# Site Of Jubilee Baths, Nelson Place, Newcastle 16/00244/FUL



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**MULTI STOREY CAR PARK MIDWAY, NEWCASTLE  
NEWCASTLE BOROUGH COUNCIL**

**16/01047/DEEM3**

The application is for planning permission for the erection of two roller shutter doors and two pedestrian gates. The building lies within the Newcastle Town Centre Conservation Area, within the Pool Dam Waterside Quarter, and outwith the Historic Core, all as indicated in the Newcastle Town Centre Supplementary Planning Document

**The statutory 8 week determination period for the application expires on the 15<sup>th</sup> March 2017.**

## **RECOMMENDATION**

**PERMIT subject to conditions relating to the following;**

- 1. Commencement of development within 3 years**
- 2. Development in accordance with the submitted plans**
- 3. Colour of the roller shutter doors to be dark grey or another dark recessive colour to be agreed.**
- 4. The pedestrian gates shall open inwards away from the highway.**
- 5. Permission to enure for benefit of NulBC only**

## **Reason for recommendation**

The proposed roller shutters would have an acceptable visual impact, subject to them being a dark and recessive colour, and would not adversely affect the character of the Conservation Area. The introduction of the pedestrian gates would not constitute development, as they do not materially affect the appearance of the building, and as such are not within the control of the Local Planning Authority.

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

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

## **KEY ISSUES**

The application seeks planning permission for the erection of roller shutter doors to the vehicular access and exit points of the Midway Car Park, and pedestrian gates to the two pedestrian points of access either side of the vehicular access.. The application site is located within the Town Centre Conservation Area, although not within its historic core as defined in the Town Centre SPD. Members will no doubt be aware that the building dates from the 1960s and is described in the Conservation Appraisal as being within a negative character area, and as a "key negative"..

The roller shutter and gates are required to prevent access to the car park outside of the core operational hours to prevent problems relating to antisocial behaviour that are currently taking place.

There are no planning policy objections to the principle of providing the doors and gates to the car park , subject to a consideration of the visual impact of the proposed fencing upon the building and the character of the Conservation Area.

## **Visual Impact upon the Character of the Conservation Area**

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

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Policies B9 and B10 within the Local Plan seek to ensure that development within Conservation Areas either preserves or enhances its character.

The proposed development seeks planning permission to provide roller shutter doors to the vehicular access and exit. The shutter box is to be mounted on the external wall and the proposed roller shutters are of the perforated type. The preference would be for the shutter box to be mounted internally however this is not an option due to the limited head room in the car park. Notwithstanding this it is considered that, in the context of this building and its surroundings, the introduction of roller shutter doors would not be harmful to the building or the wider Conservation provided that they are of an appropriate colour. In this regard, the submission indicates that the roller shutters are to be coloured yellow. It is considered that this choice of colour would result in the roller shutters being unduly prominent in appearance. A more appropriate colour would be a dark, recessive grey or other recessive colour and this could be secured through the imposition of a condition.

In light of the conclusion that the proposed roller shutter doors would not be harmful to the character or appearance of the Conservation Area, the Conservation Advisory Working Party's suggestion that vertical sliding gates would be more appropriate has not been discussed with the applicant. In any event it does not appear that such an option could be easily achieved.

The proposed pedestrian gates are proposed to be galvanised vertical bars of a similar design to the galvanised vertical fence that has been installed along the Midway frontage of the car park. Given the existence of the fence and the relatively small size of the pedestrian gates, their introduction will not materially affect the external appearance of the building. They are not considered to be "development" as defined in the Planning Act, and as such are not within the control of the Local Planning Authority.

Overall the visual impact of the proposed development is considered to be acceptable within the context of the building and wider Conservation Area and as such accords with local and national policy.

## **APPENDIX**

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

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

Policy CSP1: Design Quality  
Policy ASP4: Newcastle Town Centre

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy B9: Prevention of harm to Conservation Areas  
Policy B10: The requirement to preserve or enhance the character or appearance of a Conservation Area  
Policy B13: Design and development in Conservation Areas

### **Other material considerations include:**

Relevant National Policy Guidance:

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

Newcastle Town Centre Supplementary Planning Document (January 2009)

Newcastle Town Centre Conservation Area Appraisal (August 2008)

Relevant Planning History

None relevant

Views of Consultees

The **Highway Authority** has no objections subject to a condition requiring the pedestrian gates to open inwards away from the highway.

The **Conservation Officer** considers that the shutters need to be as unobtrusive as possible and painting the roller shutters yellow will not achieve this, so they should be a recessive colour. If this can be achieved, within the context of this building, its use, and surroundings, it is not considered that the proposal will be harmful to the character or appearance of the Conservation Area. As such no objections are raised.

The **Conservation Advisory Working Party** is concerned about the shutters being subjected to vandalism and would like consideration to be given to vertical sliding gates which would be less obtrusive and more secure. Some concerns were raised with the colour proposed. The proposed gates are acceptable but ideally could be painted black or white.

Applicant/agent's submission

The application includes elevations plans submitted with the application form. All of these documents are available for inspection at the Guildhall and on

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/01047/DEEM3>

Background Papers

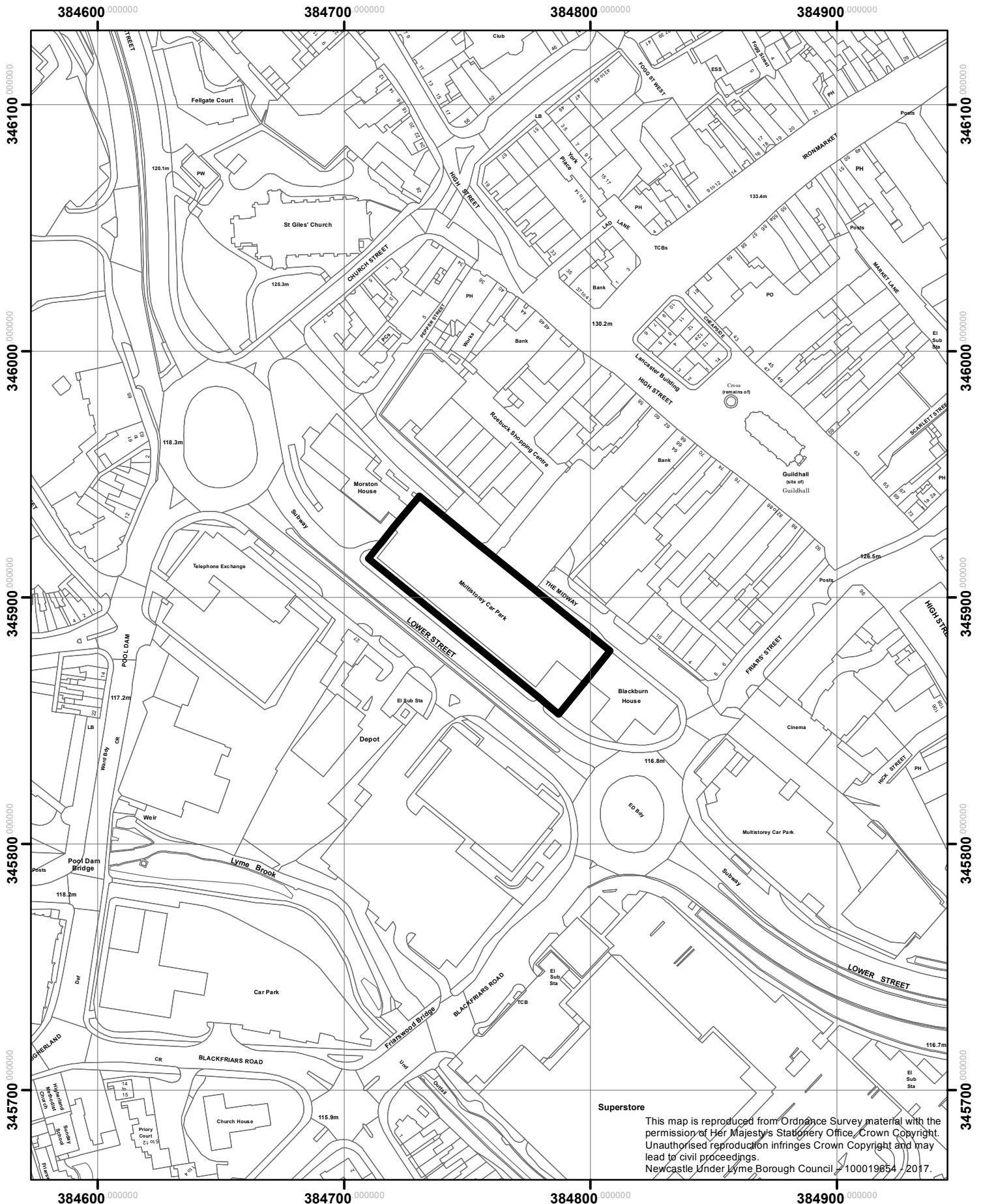
Planning File  
Development Plan

Date report prepared

13<sup>th</sup> February 2017

# Multi Storey Car Park, The Midway, Newcastle

## 16/01047/DEEM3



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**LAND AT SELBOURNE, PINWOOD ROAD, ASHLEY  
MR PETER MARSON**

**16/01107/OUT**

The application is for outline planning permission for the erection of 2 dwellings. The vehicular access is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and internal access details) reserved for subsequent approval.

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

The application has been called in to Committee by two Councillors due to concerns that the application is inappropriate, constitutes overdevelopment in this area, is in an unsustainable location and there have been several previous applications for the site.

**The 8 week period for the determination of this application expires on 7<sup>th</sup> March 2017.**

## **RECOMMENDATION**

**A. Subject to the applicant first entering into a Section 106 obligation by 31<sup>st</sup> March 2017, to secure a contribution of £2,943 per dwelling to improvements to facilities at Burntwood playground and their maintenance,**

**PERMIT subject to conditions concerning the following matters:**

- 1. Standard time limits for submission of applications for approval of reserved matters and commencement of development**
- 2. Reserved matters submissions**
- 3. Approved plans**
- 4. Visibility splays**
- 5. Access width**
- 6. Layout of site including disposition of buildings and provision of parking within the curtilage**
- 7. Surfacing materials for access and parking areas**
- 8. Details of alignment of utility apparatus**
- 9. Hard and soft landscape design**
- 10. Tree retention and protection**
- 11. Details of any gates to the access**

**B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that without the obligation being secured, the development would fail to secure an appropriate contribution for the improvement to off-site public open space which would reflect the infrastructure needs of the development; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

## **Reason for Recommendation**

In the context of the Council's inability to robustly demonstrate a 5 year plus 20% supply of deliverable housing sites, it is not considered appropriate to resist the development on the grounds that the site is in within the rural area outside of a recognised Rural Service Centre. The adverse impacts of the development do not significantly and demonstrably outweigh the key benefits of this sustainable development. 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**

Additional information has been requested and provided and this is now considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework (NPPF).

**Key Issues**

The application is for outline planning permission for the erection of 2 dwellings. Vehicular access is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and internal access details) reserved for subsequent approval.

The application site lies within the open countryside and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. It is not considered that the proposal raises any issues relating to residential amenity or highway safety and therefore, the main issues in the consideration of the application are:

- Is the principle of residential development on the site acceptable?
- Is the proposal acceptable in terms of its impact on the form and character of the area?
- Would there be any adverse impact on trees?
- Are any planning obligations considered necessary and lawful?
- 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?

**Is the principle of residential development on the site acceptable?**

The application site lies within the Rural Area of the Borough in the open countryside.

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

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

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

As indicated above this site is not within a village envelope and the proposed dwellings would not serve an identified local need and as such are not supported by policies of the Development Plan.

Planning permission was granted last year for a total of 3 dwellings on the adjacent site to the north-east. Two dwellings were granted consent under Ref. 16/00210/FUL and then a bungalow was subsequently granted consent under Ref. 16/00658/OUT. In approving those dwellings the Council gave consideration to two earlier consents for dwellings on the opposite side of Pinewood Road (Refs. 14/00150/OUT and 15/00506/FUL). In consideration of those proposals it was acknowledged that the sites are located close to but outside of the village envelope of Loggerheads with the edge of the village development boundary being approximately 0.3km away (measured along the public highway). It was also acknowledged that Pinewood Road has no footpath or street lighting but that there is a public footpath (Loggerheads 17) opposite the site which links Pinewood Road to the A53 Newcastle Road. The village facilities can be accessed on foot along Newcastle Road via the lit footpath alongside this route.

As in the cases referred to above, the current application site is not isolated from other dwellings and it is located within walking distance of the centre of Loggerheads. There is a regular bus service that



runs in close proximity to the site, with a bus stop being less than 100 metres away, between Hanley Bus Station to Market Drayton with a stop in Loggerheads (service centre). Therefore the site can be classed as being in a sustainable location amongst existing residential properties, within walking distance of the village envelope and having public transport opportunities in close proximity. Although Loggerheads Parish Council have expressed the view that the site is in an unsustainable location, given the previous decisions of the Council on sites immediately adjacent to and opposite the current site, it is not considered that an objection could be reasonably sustained on such grounds.

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.

The Council is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore is set out in paragraph 14 of the NPPF which sets out that there is a presumption in favour of sustainable development and the issue of whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits will be considered below.

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

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

The Urban Design Supplementary Planning Document, at R12, indicates that residential development should be designed to contribute towards improving the character and quality of the area. Where in or on the edge of existing settlements developments should respond to the established character where this exists already and has definite value. Where there is no established character the development should demonstrate that it is creating a new character that is appropriate to the area. At RE7 it indicates that new development in the rural areas should respond to the typical forms of buildings in the village or locality; RE6 states that elevations of new buildings must be well composed, well-proportioned and well detailed: and RE7 says new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) in 10.1 indicates that the aims for development within, or to extend, existing rural settlements are

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

It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality. The elevations of new buildings must be well composed, well-proportioned and well detailed and new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The site is within an Area of Active Landscape Conservation. Policy N18 of the Local Plan states that within such areas development that will harm the quality and character of the landscape will not be

permitted. Particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area.

The site comprises land on the south-east side of Pinewood Road. As stated above, planning permission was granted last year for a total of three dwellings on the adjacent site to the north-east. This current proposal is for two dwellings on land to the front of Selbourne. Although this is an outline application with siting reserved for subsequent approval, the applicant has submitted an illustrative plan to show how two dwellings could be sited in line with both the neighbouring dwelling to the south-west, The Latches, and the dwellings approved on the adjacent site to the north-east.

Concern has been expressed by Loggerheads Parish Council that this is the third application at this site resulting in overdevelopment. The surrounding area is characterised by medium to large residential properties of varying styles and designs set within plots of varying sizes and it is considered that the size of the proposed plots would be commensurate with those in the vicinity. Although the majority of the residential development on Pinewood Road is on its north-western side, there are dwellings to either side of the application site and a property to the rear. This distinguishes the site from the land to the south of The Latches which is characterised by open fields with sporadic farmsteads.

It is considered therefore that subject to appropriate siting and design, two dwellings could be accommodated on this site with limited harm to the character of the area.

#### Would there be any adverse impact on trees?

There are trees around the perimeter of the site and the application is accompanied by a Tree Report which indicates that the majority of the trees would be retained. The Landscape Development Section (LDS) has no objections to the proposal subject to conditions. Subject to the imposition of conditions, it is not considered that an objection could be sustained on the grounds of impact on trees.

#### Are any planning obligations considered necessary and lawful?

The LDS has stated that given that the area of this site exceeds 0.4ha, then in accordance with LP Policy C4, a financial contribution towards Public Open Space provision is required.

The area of this site is 0.5ha and therefore it does exceed the threshold referred to in Policy C4. Whilst the starting point for the determination of applications remains the development plan, it is necessary to consider the Written Ministerial Statement of 28 November 2014 which announced changes to national policy with regard to planning contributions. The Statement indicated, amongst other things, that contributions for affordable housing and tariff style planning obligations should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sq.m. Whilst this site is for less than 10 units with a combined floorspace of less than 1000sq.m, Officers are of the view that the contribution towards the provision, upgrading and maintenance of public open space is not a tariff style contribution. This is because it is not a contribution towards "a funding pot intended to provide common types of infrastructure for the wider area" or a funding pot "intended to fund the provision of general infrastructure in the wider area". In this instance it will be towards a specific project, namely local playground facilities at Burntwood. On this basis therefore, weight must be given Policy C4 and it is considered that the requested financial contribution would comply with Section 122 of the CIL Regulations.

It is also necessary to consider whether it complies with Section 123 which came into force on 5th April 2015. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it provides funding in respect of a specific infrastructure project or a type of infrastructure and, if five or more obligations providing funding for that project or type of infrastructure have already been entered into since 6 April 2010. In this instance there have not been five or more financial contributions secured for the open space at Burntwood and it would therefore comply with CIL Regulation 123.

The LDS has also commented that given the proximity of the adjacent development, there may be a requirement for a cumulative contribution. The application site is adjacent to another site that has recently received planning permission for three dwellings. It is the case that where a site is viewed in

combination with an adjacent site, those sites should be considered together. In this instance however, the sites are not in the same ownership and therefore it is not considered reasonable to consider the developments as a single entity – i.e. as being for 5 units.

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

In this particular case, it is not considered that the adverse impacts of allowing the proposed development significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

## APPENDIX

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

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

Policy SP1:	Spatial Principles of Targeted Regeneration
Policy SP3:	Spatial Principles of Movement and Access
Policy ASP6:	Rural Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change
Policy CSP4:	Natural Assets
Policy CSP5:	Open Space/Sport/Recreation

#### Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy N12:	Development and the Protection of Trees
Policy N13:	Felling and Pruning of Trees
Policy N17:	Landscape Character – General Consideration
Policy N18:	Area of Active Landscape Conservation
Policy C4:	Open Space in new Housing Areas

### **Other Material Considerations include:**

National Planning Policy Framework (NPPF) (2012)

Planning Practice Guidance (PPG) (2014)

#### Supplementary Planning Guidance/Documents

Space Around Dwellings SPG (SAD) (July 2004)

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

#### Relevant Planning History

None relevant on this plot but the following history on the adjacent site to the north-east is relevant:

16/00210/FUL	Erection of 2 dwellings	Approved
16/00658/OUT	Erection of a dwelling (bungalow)	Approved

#### Views of Consultees

The **Highway Authority** has no objections to the proposal subject to conditions requiring details of visibility splays, access width, layout of the site, surfacing materials and means of surface water drainage for the access and parking areas and gates to the proposed access.

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

The **Landscape Development Section** has no objections subject to conditions regarding tree retention and protection, alignment of utility apparatus and landscape design. A financial contribution towards Public Open Space is requested.

**Loggerheads Parish Council** objects on the following grounds:

- The location of the proposed development would ensure that residents would be dependent on the use of private motor vehicles.
- The proposal would not materially enhance or maintain the viability of a rural community and is in an unsustainable location.
- Notwithstanding that the Council cannot robustly demonstrate an up to date 5 year plus 20% supply of deliverable housing sites, given the unsustainable location of the site, there is no presumption in favour or permitting this development.
- This is the third application at this site making 5 dwellings. This is overdevelopment of this site along this road.

#### Representations

None

#### Applicant's/Agent's submission

The application is accompanied by a Tree Survey and a Design and Access Statement. All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/01107/OUT>

#### Background papers

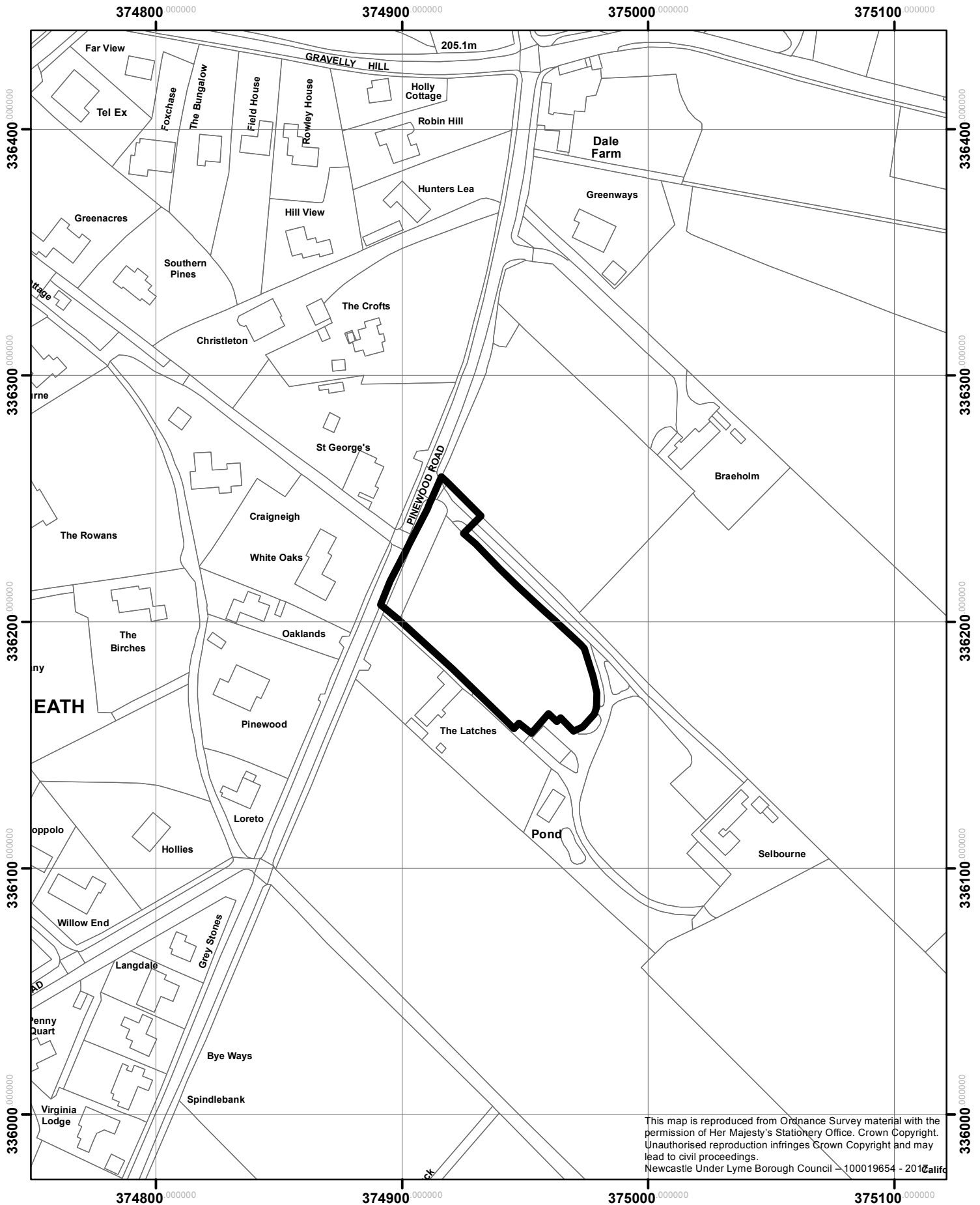
Planning files referred to  
Planning Documents referred to

#### Date report prepared

10<sup>th</sup> February 2017

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# Land At Selbourne, Pinewood Road, Ashley 16/01107/OUT



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KEELE HALL, KEELE UNIVERSITY  
KEELE UNIVERSITY

17/00030/LBC

The application seeks listed building consent for modifications to the existing balustrade of the South East and North West Galleries to the Great Hall at Keele Hall.

Keele Hall is a Grade II\* Listed Building which is situated within the Keele Hall Conservation Area as defined on the Local Development Framework Proposals Map. The application site is within the Grade II Historic Park and Gardens at Keele Hall.

**The statutory 8 week determination period for the application expires on 15 March 2017**

## **RECOMMENDATION**

**PERMIT subject to the following conditions;**

- 1. Time limit**
- 2. Materials as stated on application form / drawings**
- 3. In accordance with the approved plans**

## **Reason for recommendation**

The proposal would preserve the special character and appearance of the Grade II\* Listed Building and there are no factors which weigh against it.

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

Discussions have taken place between the Councils Conservation Officer and the applicant prior to the submission of the 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 listed building consent (LBC) for modifications to the existing balustrade of the South East and North West Galleries to the Great Hall at Keele Hall involving the introduction of a new, higher handrail. The application is a resubmission following the refusal, by Planning Committee, for application reference 16/00207/LBC which also involved modification of the existing balustrade of the galleries above the Great Hall but also included modifications to the balustrade to the landings to the four storey stairway situated in the North East wing. The previous proposal was refused because the proposed alteration would be harmful to the special interest of the Grade II\* Listed Building without sufficient justification for such alterations.

As with the previous application, the only issue to address in the determination of the application is whether the proposal preserves the special character and appearance of the building.

In assessing applications for LBC the Planning Authority is required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 132 of the NPPF indicates that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the assets conservation. The more important the asset the greater the weight should be and any harm or loss should require clear and convincing justification.

Policy CSP2 of the Core Spatial Strategy seeks to ensure that buildings of particular heritage value are safeguarded. Policy B6 of the Local Plan states that the Council will resist alterations or additions to a listed building that would adversely affect its character or its architectural or historic features.

The current application, as indicated above, no longer seeks LBC for the modification of the North East Wing stairway and relates only to the modifications to the South East and North West galleries of the Great Hall. The Great Hall has three bays with ionic columns set across the gallery with a brass balustrade attached to the stone columns with brackets. The modifications proposed within the current proposal, as in the previous scheme, is the introduction of a new handrail in 40mm tubular brass, ammonia aged to match the existing attached by brackets to the stone columns as closely reflecting the existing balustrade appearance.

The University have carried out an audit that has demonstrated that the safety of users of the hall is compromised. The existing handrail is currently at a height of 0.87m (below waist height for many people) which is in excess of 200mm below the current Building Regulations recommended height. There is a falling distance in excess of 6m from the galleries. As the galleries to the Great Hall are freely accessible for users of the Hall this is an unacceptable safety risk.

The University have submitted a scheme for what they believe is the option that would result in the least interference to the existing structure - the introduction of the additional handrail that will increase the overall height of the balustrade to each gallery to 1.1m. In establishing this as the preferred option two other options have been discounted by the University as follows:

- Closing of the gallery areas to members of the public. The indication provided is that this may be feasible for the North West gallery, but is not feasible for the South East gallery as this forms part of the main circulation and fire escape route.
- Replacement of the existing balustrades is considered a last resort as the balustrades are original features of the Hall.

The overall significance of this part of the building is high and its appearance is important and in accordance with paragraph 132 of the NPPF consideration has to be given as to whether the special character and significance of Keele Hall will be harmed by this alteration. It is your Officer's view that as the new rail will match the existing top rail and will be fixed in the same manner as the existing handrail, using brackets of the same design as the original, the overall significance of this part of the hall will be retained and not harmed by this addition. This view is shared by the Council's Conservation Officer and Historic England.

In conclusion it is considered that the proposal would preserve the special character and appearance of the Grade II\* Listed Building and there are no factors which weigh against it and therefore listed building consent should be granted.

## **APPENDIX**

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

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

Policy CSP1: Design Quality  
Policy CSP2: Historic Environment

#### [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy B5: Control of development affecting the setting of a Listed Building  
Policy B6: Extension or Alteration of Listed Buildings  
Policy B9: Prevention of harm to Conservation Areas  
Policy B10: The requirement to preserve or enhance the character or appearance of a Conservation Area  
Policy B13: Design and Development in Conservation Areas  
Policy B14: Development in or adjoining the boundary of Conservation Areas

### **Other material considerations include:**

#### [National Planning Policy Framework \(NPPF\) \(2012\)](#)

#### [Planning Practice Guidance \(PPG\) \(2014\)](#)

#### Relevant Planning History

16/00207/LBC – Modifications to balustrade – Refused 2016

#### Views of Consultees

**Historic England advises** that despite some changes and alterations, the Great Hall retains much of its original character and as such any alterations must be carefully considered. Attention is drawn to the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, regarding the preservation of listed buildings and any features of special architectural or historic interest which it possesses, and section 12 of the NPPF.

They are aware of the University's concerns regarding the safety of students, staff and visitors, and the need to augment the existing balustrade. Having discussed the scheme in detail with your conservation adviser last year, they are satisfied that the currently proposed solution will have limited visual impact and will not harm the special significance of this important building.

The **Conservation Officer** states the proposal affects the interior of the Great Hall – described in the listing as a 'late medieval/early Renaissance style with a 3 bay arcade at each end with gallery above'. The gallery above at each end has 3 bays with ionic columns and set across the gallery is a brass balustrade applied to the stone columns with brackets.

An audit has been undertaken by the applicant to identify issues of safety to the hall and considered that the main risk is the low height of the rail in the gallery area of the Great Hall, which has unrestricted access, results in a low tipping point that is unsafe.

The proposal is to add a rail above the existing balustrade on each side which will be matched to the existing top rail in terms of material, colour, profile and fixing and will be fixed on the same plane directly above the existing top rail. In line with paragraph 132 of the National Planning Policy Framework consideration has been given to the special character and significance of Keele Hall will be harmed by this alteration and it is considered that that overall significance of the Hall will be retained and not harmed by this addition and is justified as it addresses an existing risk.

Whilst some reservations about the proposal was raised and it was suggested that the whole balustrade could be lifted up and sat on a stone plinth, the **Conservation Area Working Party** raised no objections and felt that the change to the character of the balustrade whilst material, was acceptable.

The views of **Keele Parish Council** have been sought and are due by 19<sup>th</sup> February. If received they will be reported.

#### Representations

None received to date

#### Applicant/agent's submission

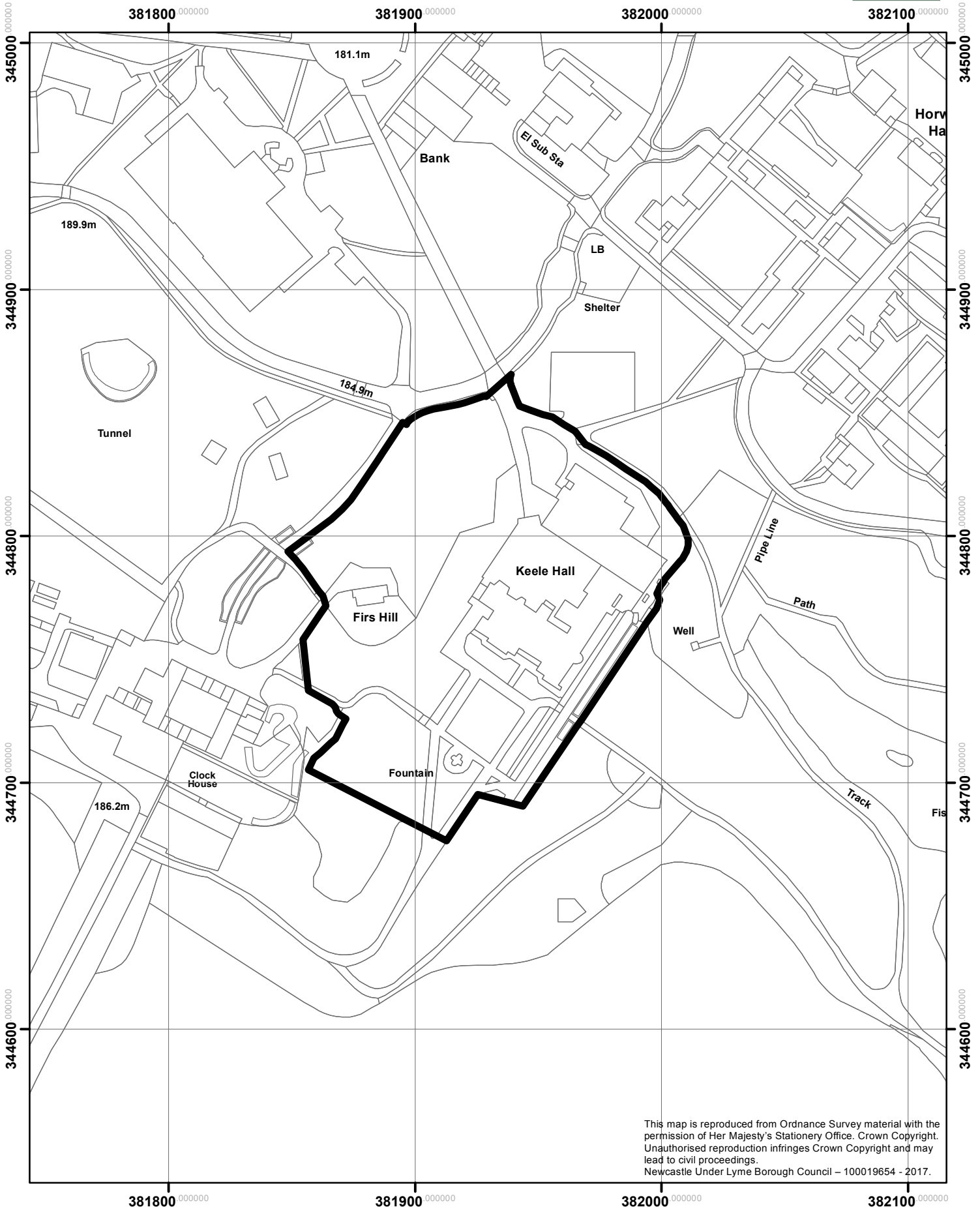
The application is supported by a Heritage & Design Statement. All of the application documents can be viewed at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00030/LBC>

#### Background Papers

Planning File  
Development Plan

#### Date report prepared

15<sup>th</sup> February 2017



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## PROPOSED ARTICLE 4 DIRECTION FOR STUBBS WALK CONSERVATION AREA

### **Purpose of the report**

This report proposes the making of an Article 4 Direction in Stubbs Walk Conservation Area which will remove certain permitted development rights from certain properties and require planning approval for works which could have an adverse effect on the special character and appearance of the Conservation Area.

### **Recommendation**

**To agree to the making of a non-immediate Article 4 Direction for Stubbs Walk Conservation Area on the terms set out in the report.**

### **Reasons**

The removal of permitted development rights through an Article 4 Direction would help protect features in Conservation Areas which are key elements to their distinctive special character, and to give effect to the proposals within the agreed Conservation Area Appraisal and Management Plan for Conservation Areas.

## **1.0 Background**

- 1.1 The Council resolved in March 2011 to undertake a rolling programme of Conservation Area Appraisals and Management Plans (CAMPs) for the Conservation Areas in the Borough. A Conservation Area Appraisal and Management Plan have been adopted by the Council for Stubbs Walk Conservation Area. One of the proposals set out in the Management Plan was that the Borough Council would consider the making of an Article 4 Direction for certain relevant types of development.
- 1.2 This process has already been carried out in Butterton, Betley, Basford and more recently last year in Madeley, Audley and Whitmore following similar Appraisals, and relevant consultation, Article 4 Directions have been made and confirmed in all of these areas.
- 1.3 Extensive consultation was undertaken on the Management Plans for Stubbs Walk, involving the seeking of the views of local stakeholders on the particular issues facing the Conservation Area. Support in principle for such a Direction was given during this consultation from residents.
- 1.4 The final version of the Appraisal and Management Plan for Stubbs Walk was approved by the Borough Council as a Supplementary Planning Document on 14 September 2016.
- 1.5 Article 4 Directions are one of the tools available to local planning authorities to help to respond to the requirement in legislation to preserve and enhance their Conservation Areas. Such Directions are made under Article 4 of the Town and Country Planning (General Permitted Development) Order (the GPDO) and they can withdraw selected automatic planning permissions granted by the GPDO. The existence of an Article 4 Direction ensures that the community, through its Local Planning Authority, has an opportunity to consider any proposed changes by requiring the submission of a planning

application to obtain planning permission first for particular types of development. An Article 4 Direction only means that a particular development cannot be carried out under permitted development and therefore needs a planning application. It does not mean that such development is not allowed.

1.6 The National Planning Policy Framework (NPPF) states that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Conservation Areas are designated because of their special character and appearance and their architectural and historic interest. The aim of such a designation is to try and preserve and enhance this special character and appearance.

1.7 The Conservation Advisory Working Party has been asked for their views on this proposal and these will be reported to the Committee.

### 1.8 **National Planning Practice Guidance**

1.9 The Town and Country Planning (General Permitted Development) Order 2015, as amended, makes various forms of development permitted development and thus grants automatic planning permission for them.

1.10 The 2014 *National Planning Practice Guidance* provides easy accessible and up to date information on all aspects of Planning including the making of an Article 4 Direction. The following link sets out the information needed to make such a direction and answers general questions on procedure and the implications of a Direction.

<http://planningguidance.communities.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/>

### 2.0 **Removal of Permitted Development Rights**

2.1 Local planning authorities can remove permitted development rights by either a condition on a planning permission or by an Article 4 Direction. The latter are made on a case by case basis and should be based on whether the exercise of permitted development rights, in the case of Conservation Areas, would harm the visual amenity of an area or damage the historic environment. The potential harm that the Direction is intended to address should always be clearly identified. An Article 4 Direction means that a particular development cannot be carried out under permitted development and therefore needs a planning application.

2.2 Not all areas or uses of buildings have the same permitted development rights. There are a range of exclusions to what development is permitted in protected areas, which is known as Article 2(3) land, which covers Conservation Areas and other areas. Article 4 Directions are however a means to bring within the scope of planning control some of the incremental changes which can damage the important characteristics of a Conservation Area. The Guidance states that there should be a particularly strong justification for the withdrawal of permitted development rights relating to

- a wide area (such as the whole of a local authority area)
- agricultural and forestry development – such directions would need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty
- cases where prior approval powers are available to control permitted development
- leisure plots and use



- the installation of microgeneration equipment.
- 2.3 There are two types of Directions:- non-immediate directions where rights are only withdrawn following consultation of at least 21 days and only come into force on a specified date which is not less than 28 days after the notice is published. Permitted development rights are withdrawn after consideration has been given to any representations and the Direction is formally confirmed by the Local Planning Authority.
- 2.4 Directions can also be made with immediate effect are where permitted development rights are withdrawn straight away. This is only where the local planning authority considers that the development to which the Direction relates would pose an immediate threat to local amenity or would be prejudicial to the proper planning of an area. They can only relate to development within the curtilage of dwelling houses, works to fences or walls or other minor operations, some changes of use and temporary buildings and works of demolition (other than by Historic England). To remain in force immediate directions must be confirmed following consultation within 6 months of when it was originally made otherwise it will no longer remain in force. Article 4 Directions cannot be made for development which has already started or completed.

### 3.0 **Stubbs Walk Conservation Area**

- 3.1 The proposal within the Management Plan, drawn up after consultation, is limited to a removal of certain permitted development rights and that indicated that if such a Direction was made planning permission might then be required for
- all extensions to houses whatever the size, including porches, on the front of the building
  - changing roof materials and insertion of rooflights on front-facing roofslopes
  - replacing windows or doors on the front elevation
  - the removal or partial demolition of a chimney
  - the erection, alteration or removal of a wall, gate, or fence at the front of the building as well as its demolition (front means facing a public highway or road or open space)
- 3.2 Important features such as windows, doors, roofs, frontages, chimneys and boundary walls all play a part in defining the character of an area. This is especially relevant in Conservation Areas such as Stubbs Walk which has a high percentage of buildings with original windows, doors and walls and railings.

### 4.0 **Proposed Stubbs Walk Article 4 Direction**

- 4.1 Officers have considered carefully the buildings in the Conservation Area including some of those identified as “positive buildings” within the Conservation Area Appraisal, to determine which buildings are the most appropriate for an Article 4 Direction. Schedule A below sets out the specific buildings for which it is proposed to remove certain permitted development rights in the Stubbs Walk Conservation Area, which your officers feel is the minimum necessary to achieve the objectives of preserving and enhancing a Conservation Area.
- 4.2 A plan of the Conservation Area indicating the location of these properties will be displayed at the meeting and a draft of it is attached as Appendix 1. It should be noted that Listed Buildings already have protection from alterations which are considered to affect their special character.
- 4.3 It is legally possible for the Council to implement an immediate Direction as long as the Council perceives that there is a direct threat to the amenity or character of the

Conservation Area even though there are more limited types of permitted development rights that may be restricted in this way. The Conservation Area Appraisal and Management Plan for Stubbs Walk has already proposed the making of such a Direction and this has been the subject of a consultation exercise. It is also possible to make a non-immediate Direction. Your officers consider that given that there is no immediate identifiable threat the Council should now proceed with a non-immediate Direction, for the properties referred to in Schedule 1 and the rights listed, which would come into effect following the now required formal consultation and after the required consideration of any representations that may be received.

- 4.4 Consideration has been given to the removal of Permitted Development rights for extensions and alterations to financial or professional services, offices and schools in the Conservation Area.
- 4.5 Insofar as financial and professional services and offices are concerned (a significant use in this Conservation Area) such uses do not have the same permitted development rights within Conservation Areas and planning permission is required for most alterations and extensions or is restricted and controlled by conditions to ensure that materials match. Given the non-domestic uses in this Conservation Area are generally within former houses the space around them for extensions is limited and many have no or very little front gardens where the most harm can be done to character and appearance of the area. It is therefore not proposed to take away permitted development rights for commercial premises for these forms of development because there is little to gain and Article 4 Directions should only be used when there is real threat to the amenity of an area. The main impact on the area is probably the signage erected on commercial premises and this comes under a different set of regulations which cannot be controlled by an Article 4 Direction.
- 4.6 Newcastle-under-Lyme School is the main landowner within the Conservation Area and has many buildings across two main sites. Schools have extensive permitted development rights such as for new buildings, extensions and alterations and consideration has been given to removing this permitted development right. There are already more restrictions and conditions under this right within a Conservation Area, meaning any new building or extension should be constructed using materials which have a similar external appearance to those used on the original school building. In addition for this Class of development planning permission is required for any development if it is within 5 metres of a boundary edge of the school premises. Given the nature of the location of the school buildings, across two main sites, the consequences of the School taking advantage of its permitted development rights is quite limited and the likelihood of this kind of development causing harm to the character and appearance of the Conservation Area is unlikely. It is your officer's view that it is not appropriate and necessary to take away permitted development rights specifically relating to schools.

## 5.0 **Consultation**

5.1 Consultation will be done through the following:

- By production of a leaflet explaining the effect of the Direction and how to make representations and the serving of the required notice on the owner/occupier of every house affected by the Direction.
- Placing an advert in The Sentinel which will set out the properties and classes of development affected, explain the Direction's effects and specify a period of 21 days to make representations to the Local Planning Authority.

## **6.0 Compensation**

- 6.1 Following the making of an Article 4 Direction, the local planning authority may be liable to pay compensation to those whose permitted development rights have been removed if permission is refused (or granted subject to more limiting conditions than the GPDO), where development would normally be permitted. The grounds for compensation are limited to abortive expenditure (for example on the drawing up of plans) or other loss or damage directly relating to the withdrawal of permitted development rights. These rights for compensation are set out in sections 107 and 108 of the Town and Country Planning Act (as amended) and the Town and Country Planning (Compensation) (England) Regulations 2015 set out when time limits apply. Claims for compensation must be made within 12 months of the date on which the planning application for development, formerly permitted is rejected or permitted with conditions which are more limiting than before the Direction was in place. The intention in this case is however not to delay the coming into force of the Article 4 Direction so that there would be that gap of at least 12 months, but rather to proceed more promptly.

## **7.0 Conclusions**

- 7.1 The Conservation Area Management Plan for the Conservation Areas contain a number of recommendations which when successfully implemented will meet the Council's statutory duties and responsibilities under the planning and conservation legislation to preserve and enhance the special architectural or historic interest of this area.

## **Schedule A**

### **Stubbs Walk Conservation Area - Article 4 Direction Property Schedule**

*1. The following dwellings would be affected by removal of Permitted Development rights relating to extensions; the provision of replacement windows and doors, porches; any alteration to the roof on front roof slopes; the removal of chimneys; and boundary treatments*

7 – 19 (odd), 19, 25, 27, 29, 31, 33 & 35 (odd) Mount Pleasant  
96 & 104, 106, 108 (even) Lancaster Road  
1 and 2 Gladstone Villas, Victoria House & 12 – 22 Victoria Road  
48 - 64 West Street  
37, 39, 41, 43 West Street  
21 Clarence Street  
35 Princess Street  
2 North Street  
111 York Street  
1, 2, 3 & 4 Lancaster Avenue

*2. The following properties would be affected by removal of Permitted Development rights for boundary treatments only including erection, alteration or demolition.*

92 & 94, 98, 100 & 102 Lancaster Road  
45 West Street & 6 & 8 Marsh Parade  
Newcastle-under-Lyme School in respect of Victoria Road, Mount Pleasant and Lancaster Road.



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## 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 4<sup>th</sup> January 2017 (when the Committee last received a similar report) and the date of the preparation of this report (13<sup>th</sup> February 2017).

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 in 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 engrossment 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) 16/00902/DEEM4 Land off Deans Lane and Moss Grove**

This application, for outline planning permission for the erection of up to 50 dwellings, came before the Planning Committee on 6<sup>th</sup> December 2016 (at around week 5). The resolution of the Planning Committee included a time limit for the securing, by the 24<sup>th</sup> January 2017, of an undertaking regarding the provision of a planning obligation with respect to the provision of a visibility splay and an agreement providing obligations relating to on-site affordable housing, and payment of contributions towards public open space and education facilities.

Neither obligation was completed by the 24<sup>th</sup> January – in the case of the agreement due to delays on behalf of the Council as the Local Planning Authority in providing instructions, and accordingly it was considered appropriate by your Officer to agree to extend the period, within which the obligations can be completed by, to the 14<sup>th</sup> March. Some 15 weeks have now passed since receipt of the application.

**(2) 16/00874/FUL Land West of Barrie Gardens, Talke**

This application, for full planning permission for the erection 10 dwellings, came before the Planning Committee on 4<sup>th</sup> January 2017 (at around week 10). The resolution of the Planning Committee included a time limit for the securing, by the 3<sup>rd</sup> February 2017, of planning obligations for the payment of a contribution towards off site public open space.

The applicant's legal representatives submitted a draft agreement prior to the deadline but it was not completed by the 3<sup>rd</sup> February due to delays on behalf of the Council and a further extension of time was agreed to the 24<sup>th</sup> February. The Council's legal representatives have now progressed the matter and an amended draft version has been sent to the applicants to agree. The applicant has requested that the POS contribution payment trigger rather than being prior to commencement of the development be prior to first occupation of the dwellings. Officers have advised them that this does not accord with local planning policy and the applicant is now considering the advice given. A further update report will be given in a supplementary report.

Some 16 weeks have now passed since receipt of the application.

**3) 16/00958/FUL M & S, Wolstanton Retail Park, Newcastle**

This application, for a variation of condition 3 of the original planning permission 11/00611/FUL, came before the Planning Committee on the 4<sup>th</sup> January 2017. The resolution of the Committee was that subject to the applicant entering into planning obligations by no later than the 12<sup>th</sup> February, that preserve the Borough and the City



Council's position in relation the obligations secured prior to the grant of planning permission 11/00611/FUL, the application is to be permitted subject to various conditions.

The 12<sup>th</sup> February has passed without either Deed of Variation of the previous legal agreements being completed. It is understood that substantive progress has been made on the drafting of these Deeds of Variation, although the engrossment stage has not yet been reached (at least with respect to 'Newcastle' agreement). Your officer noting the progress made and the number of parties who will need to be signatories has agreed that the period can be extended to the 5<sup>th</sup> March.

Some 13 weeks have now passed since receipt of the application.

Date Report prepared

13<sup>th</sup> February 2017

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**APPEAL BY MR & MRS K SPENCER AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION OF A REPLACEMENT DWELLING (RE-SUBMISSION OF 15/00393/FUL) AT 114 MOW COP ROAD, MOW COP.**

<b><u>Application Number</u></b>	<b>16/00389/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers on 20 July 2016</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>12 January 2017</b>

The Inspector found that the main issues were;

- whether the use of the building as a house has been abandoned
- whether the proposal is inappropriate development in the Green Belt;
- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

In dismissing the appeal, the Inspector made the following comments:

- Taking into account the period of time that the building has not been in use (since 1977); the physical condition of the building; the lack of any other use of the building; and the lack of intention of the owner to abandon the use, the Inspector concluded that the use of the building as dwelling has not been abandoned.
- National policy advises that the replacement of a building in the Green Belt, provided the new building is in the same use and not materially larger than the one it replaces, is not inappropriate development. Policy S3 of the Local Plan is consistent with this approach. Having answered the question that the proposed development is in the same use as the existing building, the question which then arises is whether the proposed replacement dwelling would be materially larger.
- Neither the National Planning Policy Framework (NPPF) nor policy S3 of the Local Plan quantify what is meant by materially larger, it is therefore a matter of planning judgement based upon a comparison of existing and proposed development.
- The former cottage attached to the eastern end of the existing cottage has been demolished, and the Inspector did not take this into consideration as part of the existing. The existing building is a modest two storey dwelling (consisting of two rooms at ground floor and two above) with two small single room back additions and a single storey garage linked to the existing cottage by the remaining wall of the demolished former cottage.
- The proposed two storey replacement house would be larger than the existing. It would have a gable projecting from its rear elevation, three bedrooms, with an en-suite to the master bedroom, an entrance hallway, landing and an integral garage. Whilst features such as an en-suite bathroom and integral garage are desirable, they are not necessary to provide an acceptable standard of accommodation.
- The front elevation of the proposed replacement dwelling would be significantly taller than the existing dwelling.
- The appellant's view is that the replacement dwelling would have a similar footprint to the existing building and garage. However, in this instance, volume is a more useful means of comparison than footprint as it enables the different heights of the existing and proposed to be taken into account. The Council's position that the proposed house would have double the volume of the existing has not been refuted by the appellant, and the Inspector agreed with this assessment. The doubling in volume would be a considerable increase in size that would clearly result in a replacement dwelling that would be materially larger than the one it would replace.
- The proposal therefore represents inappropriate development and as such would be harmful to the Green Belt by definition.
- Having found the proposal would be harmful to the Green Belt it is necessary to consider whether there are very special circumstances that would outweigh this harm.

- The Council has less than a five year supply of housing land. A replacement dwelling would not result in an increase in housing in the Borough but given that the cottage is uninhabitable in its present state, the replacement house would help address the need for housing by making available a modern dwelling that would be ready to live in. However as the proposal only result in a single dwelling, only limited weight was attached to this consideration.
- The proposal would result in a dwelling in poor condition being replaced with a new, attractively designed house and as a result it would improve the visual amenity of the area. As such some weight was attached to this consideration.
- The proposed development would create some employment and to a limited extent support local economic growth during the construction period. However, as this benefit would be short lived, limited weight was attached to this consideration.
- The proposed development would cause harm by reason of inappropriateness and paragraph 88 of the NPPF advises that substantial weight should be given to such harm. Clearly, the degree of harm caused would be significant and the other considerations put forward by the appellant do not clearly outweigh the harm identified and the very special circumstances necessary to justify the development do not exist.
- Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up to date if the Council cannot demonstrate a five year supply of deliverable housing sites. Policy S3 states that, within the Green Belt, there is a presumption against development unless it is one of several specified types. It therefore has the effect of restricting the locations where housing may be developed. As a result, it affects and constrains the supply of housing land. Consequently it should be regarded as a relevant policy for the supply of housing in this case. However, the Government attaches great importance to Green Belts and because it is consistent with the NPPF the Inspector gave policy S3 significant weight.
- In circumstances where relevant policies are out-of-date, the NPPF indicates that permission should be granted, unless there are specific policies in the NPPF (such as land designated as Green Belt), which indicate that development should be restricted. Given that the Inspector found that there are no very special circumstances, Green Belt policy provides that to be the case here. Overall, therefore, the proposal does not represent sustainable development.

### **Recommendation**

**That the decision be noted.**

**APPEAL BY MR R PICKERING AGAINST THE DECISION OF THE COUNCIL TO REFUSE  
OUTLINE PLANNING PERMISSION FOR ONE DETACHED TWO STOREY HOUSE AT  
DUNNOCKSFOLD HOUSE, NEWCASTLE ROAD, MADELEY**

<b><u>Application Number</u></b>	<b>16/00341/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated authority on 21st June 2016</b>
<b><u>Appeal Decision</u></b>	<b>Appeal Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>20<sup>th</sup> January 2017</b>

The Inspector found the main issue to be the effect of the development on highway safety.

In dismissing the appeal, the Inspector made the following comments:

- The dwelling is located to the south of the A525 Newcastle Road, which is subject to a 30 mph speed limit and is also a bus route. The carriageway width is 6.2 metres and there are narrow footways on both sides of the road.
- The appellant as part of his submission has provided a Traffic Survey Report which indicates that Newcastle Road carries around 6700 vehicles per day. The report also includes a speed survey to 85<sup>th</sup> percentile which recorded speeds of 29.5 mph west bound and 31.5 mph eastbound in the 30 mph area.
- The Council's main concern with regard the proposal relates to the restricted visibility for drivers when exiting the site access onto Newcastle Road. Both parties agree that using guidance in Manual for Streets, the visibility splays at the access should be 44 metres to the west (left) and 39 metres to the east (right). It was agreed by the parties that the required visibility splays cannot be achieved as a result of the narrow width of the footway and the boundary treatments and shrub planting to the side boundary of Netherleys, the neighbouring residential property.
- The appellant has argued that requiring compliance with Manual for Streets is unreasonable in this case as the appeal relates to a private access which has been considerably improved.
- The Inspector observed on her site visit the busy nature of the road and the on street car parking that takes place in front of neighbouring residential properties and the nearby chemist and post office. She observed a number of occasions where vehicles had to give way to oncoming traffic due to parked vehicles restricting the width of the road. Some of these vehicles stopped in front of the access to Dunnocksfold House effectively blocking it for a short period of time. On street parking in the vicinity of the appeal site would be likely to be greater in the morning and afternoon when parents drop off/ pick up pupils at the nearby High School. The presence of these parked vehicles further restricts the visibility from the access for an emerging vehicle.
- It was observed that some vehicles exceeded the 30 mph speed limit. Although the traffic survey results provided by the appellant suggest vehicle speeds only slightly above the 30 mph speed limit, the Inspector had also been made aware by a neighbouring resident that a speed survey undertaken in July 2016 by consultants for the HS2 project indicates average 85<sup>th</sup> percentile speeds of around 35 mph.
- It is considered important and necessary that adequate visibility splays are provided at this access to enable vehicles to safely enter and exit the site.
- The intensified use of an access with substandard visibility splays would cause harm to highway safety. The proposal would be contrary to paragraph 32 of the Framework which aims to ensure that a safe and suitable access can be achieved for all people.

*Other Matters*

- The appeal site is located within walking distance of the services provided in Madeley including the post office, chemist, butchers, schools, recreation space and public houses. It is also serviced by good public transport. The development would provide economic benefits during construction and potential new occupants would spend in

the local economy. The proposed dwelling would also contribute to the supply of housing in the area. However as the proposal is for a single dwelling the benefit to housing supply would be limited and moderate weight is attached to these economic and social benefits.

- It has been concluded that the appeal proposal would cause harm to highway safety. This weighs heavily against the proposal. Accordingly it is considered that the adverse impact of granting permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework when taken as a whole. The application of paragraph 14 of the Framework does not therefore indicate that permission should be granted. The presumption in favour of sustainable development does not apply. In this case, the material considerations considered above do not justify making a decision other than in accordance with the development plan.

### **Recommendation**

**That the decision be noted.**

**APPEAL BY MR & MRS S COOPER AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A DETACHED DWELLING AT HIGHDOWN, ELDERTREE LANE, ASHLEY**

<b><u>Application Number</u></b>	<b>16/00343/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers on 30 June 2016</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>27 January 2017</b>

The Inspector found the main issue to be whether the future occupants of the proposal would have acceptable access to goods and services.

In dismissing the appeal, the Inspector made the following comments:

- The Council accept that they do not have a five year supply of housing and Paragraph 49 of the Framework states that in such circumstances, relevant policies for the supply of housing should not be considered up-to-date. Where relevant policies are out of date, the advice in Paragraph 14 of the Framework is applicable. This advises that planning permission should not be granted unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, or unless specific policies in the Framework indicate development should be restricted.
- The site is within a small cluster of dwellings detached from the main part of Ashley village. Although the distance into the main part of the village is not great enough to be inaccessible by foot or cycle, the route into the village is unlit and does not have pavements making these travel options less attractive than the car. Furthermore, the bus service which stops close to the site and in the centre of the village only operates hourly and so would be unlikely to be considered as a favourable option to travel such a relatively short distance.
- Notwithstanding this, there are only a limited range of facilities available in the village, namely a doctor's surgery, a hairdressers, a restaurant, two public houses, a village hall and some churches. These do provide services for local residents but for day to day needs it is likely that future residents would need to travel further afield.
- The local bus service would provide access to Loggerheads, Market Drayton or Hanley, but the hourly service only operates Monday to Saturday and finishes in the early evening. Therefore even for day to day needs it is more likely that future residents would rely heavily on their cars and as such would not have acceptable access to shops and facilities. By not providing development with accessible local services, the proposal would fail to meet the social role of planning as set out in Paragraph 7 of the Framework.
- The provision of one dwelling would make some beneficial contribution to the vitality of Ashley, Loggerheads and to the Council's housing target but the benefit of one dwelling to all these aspects would be very limited. Whilst there are no objections to the impact of the proposal on trees or on the character and appearance of the area, such matters would be expected of any development and are therefore considered neutrally not beneficially.
- The development would be contrary to the principles of sustainable development set out in the Framework.

**Recommendation**

**That the decision be noted.**

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**APPEAL BY MR M. S. COLE AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONVERSION AND ALTERATION OF AN EXISTING DISUSED TELEPHONE EXCHANGE INTO A SINGLE DWELLING AT THE FORMER GPO EXCHANGE, BLORE ROAD, HALES**

<b><u>Application Number</u></b>	<b>16/00629/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated authority on 16 September 2016</b>
<b><u>Appeal Decision</u></b>	<b>Appeal Dismissed</b>
<b><u>Costs Claim</u></b>	<b>The LPA made a costs claim against the appellant which was refused</b>
<b><u>Date of Appeal Decision</u></b>	<b>1<sup>st</sup> February 2017</b>

The Inspector considered the main issues in this appeal to be the impact of the proposal on highway safety; and the effect on the character and appearance of the area, with particular regard to a visually significant oak tree.

In dismissing this appeal the Inspector made the following comments:

*Highway Safety*

- The appeal scheme proposes a new point of access on to Blore Road. The Highway Authority has requested visibility splays of 45m in both directions be provided in order to ensure that safe and suitable access to and from the proposed dwelling could be achieved.
- The appellant's traffic report acknowledges that the proposed visibility splays would not fully comply with relevant design standards. Indeed, the actual visibility splays proposed would be approximately 2m x 4m to the west and 2m x 17m to the east.
- Whilst the hedgerow along the front of the site would be removed as part of the proposal, the site frontage is narrow. The hedgerow on neighbouring land is tall and extends in a linear pattern for a considerable length in both directions. Vehicles emerging from the proposed access into the road would have severely restricted views in both directions due to the length and height of the hedgerow. It would be necessary for drivers to enter on to the highway in order to get a good line of sight so as to judge whether it would be safe to pull out of the proposed access safely. This would result in part of the vehicle obstructing the road whilst the driver executed this manoeuvre.
- Although the road may be lightly trafficked and relative vehicle speeds may be lower than the 60 mph permitted, a car entering the highway unexpectedly at this point would result in a potential risk to other road users including cars, cyclists and pedestrians, as this would be an unexpected manoeuvre in a confined, narrow country road. Whilst the appellant's report states that drivers travelling along the road may be able to see a vehicle at the site access, this relies on the driver of that vehicle doing so and having to predict that the car may exit the site and to undertake necessary avoidance measures. This would clearly be an unsatisfactory and unsafe situation.
- The appellant has submitted plans at appeal stage which show the proposed building reduced in size in order to provide a larger parking and turning area. The Inspector considered that even if she were to take account of this plan, she was not satisfied that a second vehicle could enter the site and have the space to manoeuvre within it so as to exit onto the highway in a forward gear. In the event that future occupants had more than one vehicles or visitors to the dwelling arriving by car, it would therefore be necessary for vehicles to reverse out of the site into the highway. A vehicle reversing onto the highway at this point would give rise to highway safety concerns as given the restricted visibility of the site access, this manoeuvre would be likely to be particularly hazardous to both the driver of the vehicles itself and other road users.

- Accordingly, on this main issue it was concluded that the development proposed would be harmful to highway safety with particular regard to access and on-site parking provision. The proposal would therefore conflict with policy T16 of the Council's Local Plan which seeks to ensure that development should provide adequate access space.

#### *Hedgerow and visually significant trees*

- Taking account of the plans submitted, including those at appeal stage, there appears to be a difference between the visibility splays and root protection area for the oak tree. Part of the visibility splay would pass through the RPA as shown on the plans submitted. The visibility splays would need to be kept free from obstruction and it is not clear whether it is proposed to remove earth along with the hedgerow in order to maintain the visibility splays that would need to be provided to ensure a safe and suitable access.
- The visibility splays as shown would be likely to require some alteration of ground levels within the RPA for the oak tree as shown. Digging in the RPA area would risk damaging the established root system of the oak tree which would be likely to affect the health and longevity of the tree inevitably leading to its eventual loss or severely limiting its natural life span. The loss of the oak tree would be harmful to the visual amenity of the area as it is a significant structural feature that makes a highly positive contribution to the rural character of this part of the village.
- The development proposed would be harmful to the character and appearance of the area, with particular regard to the visually significant oak tree. Whilst the appeal scheme may not directly propose the removal of the oak tree, damage to its roots over time would be likely to result in its eventual loss and the curtailment of its natural life span.

#### *Other matters*

- It is acknowledged that there are elements that weigh in favour of the appeal proposal. These include that the previous Inspector concluded that the proposal would not be an isolated form of development for the purposes of paragraph 55 of the National Planning Policy Framework (Framework) and would support the social activities in the village, helping to maintain the vitality of the community. The proposal would also see the re-use of an existing building and would result in the creation of an additional dwelling. These are matters that weigh moderately in favour of the appeal scheme due to the small scale nature of the development proposed.

#### *Conclusion*

- Drawing matters together, the proposal would be harmful to highway safety, with particular regard to the provision of suitable visibility splays and on-site parking provision. Additionally, the provision of the required visibility splays would be likely to conflict with the requirement not to alter ground levels within the RPA of the visually significant oak tree and this would be likely to be harmful to the long term health and vigour of the tree. This harm does significantly and demonstrably outweigh the benefits identified.

#### **Application for the award of costs against the appellant**

In refusing the application the Inspector made the following comments;

- The Council have referred to the planning history of the appeal site which includes four planning applications for residential development, all of which were refused by the Council for reasons including highway safety and the effect on visually significant trees. One of those applications was the subject of an appeal in 2016 which was dismissed on the basis of the Inspector's concerns relating to highway safety and the effect of the proposal on a visually significant oak tree.

- Planning Practice Guidance (PPG) indicates that an appellant is at risk of an award of costs being made against them if the appeal or ground of appeal has no reasonable prospect of succeeding. It goes on to list examples of where this may occur, including where the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable and circumstances have not materially changed in the intervening period.
- The appeal proposal differed from the previous scheme in that it was accompanied by this additional evidence, thereby seeking to overcome the previous Inspector's concerns. On that basis, it is concluded that circumstances had materially changed and it was reasonable of the appellant to re-submit the application and appeal against the Council's decision so as to test the evidence at appeal.
- Accordingly, unreasonable behaviour leading to wasted expense has not been demonstrated. For the reasons given above, the application for an award of costs is refused.

### **Recommendation**

**That the decisions be noted.**

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**APPEAL BY MR T THREADGOLD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE EXTENSION OF PREVIOUSLY APPROVED DOMESTIC CURTILAGE BY INCLUSION OF ANCILLARY LAND INVOLVING CHANGE OF USE, WITH CHANGES TO PREVIOUSLY APPROVED BOUNDARY TREATMENTS AT HAZELWOOD BARN, BALTERLEY GREEN ROAD**

<b><u>Application Number</u></b>	<b>16/00640/COU</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers on 26 September 2016</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Date of Appeal Decision</u></b>	<b>1 February 2017</b>

The Inspector found the main issues to be whether the development is inappropriate development in the Green Belt and if inappropriate, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

In dismissing the appeal, the Inspector made the following comments:

- Notwithstanding the description of the development used on the original application, there is a dispute between the parties as to whether a change of use has taken place. The area of land which is the subject of the appeal is being used partly as a courtyard garden area and partly as a parking area for vehicles. Aerial photographs show that a building previously occupied this part of the site and it is stated that the building was used as a domestic garage in connection with the neighbouring farm and that after it was demolished the land was used for parking.
- During the site visit, several cars and horse trailers were parked on the land adjacent to the shared boundary with the appeal site and next to the area of land that is the subject of this appeal. This area is within reasonable walking distance of the main farmhouse. Additionally the occupant of the farmhouse has confirmed in writing that the area of land was previously used to park vehicles prior to it being sold to the appellant and incorporated into his garden.
- Whilst it is appreciated that previous applications may have shown the land as outside the domestic curtilage of the farmhouse, those plans were submitted for different purposes and do not specifically identify what the actual use of the land was at that time.
- Based on the evidence, the Inspector was satisfied that the area of land had a functional relationship with the main farmhouse and was used for parking. As a consequence of the appeal scheme, the land will still be used for the parking of vehicles and will retain a functional domestic relationship with a dwelling. In practise, what has taken place is a change of ownership of the land and the appeal scheme has not resulted in a change of use in the modest area of land affected.
- Engineering operations have taken place in the form of a boundary wall, laying of gravel and several domestic features. The original planning approval for the barn conversion included a brick boundary wall. The wall that has been constructed has a different alignment and is slightly extended.
- The boundary wall therefore would have been constructed in any event and given that the materials used reflect those of the farmhouse, any effect on the openness of the Green Belt is minimal.
- The appeal development is not significantly harmful to the openness of the Green Belt nor does it conflict with one of the purposes of including land within it.
- The development is not inappropriate development in the Green Belt as a change of use has not taken place and the engineering operations are not harmful to the openness of the Green Belt nor do they conflict with one of the purposes of including land within it. Accordingly the appeal should be allowed.

**Recommendation**

**That the decision be noted.**

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**APPEAL BY APPOLLO DEVELOPMENTS LTD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF TWO DETACHED DWELLINGS, DEMOLITION OF EXISTING WAREHOUSE AND FORMATION OF NEW VEHICULAR ACCESS AT LAND ADJACENT MAERFIELD GATE FARM, STONE ROAD, BLACKBROOK.**

<b><u>Application Number</u></b>	<b>16/00460/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers on 29 July 2016</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>1 February 2017</b>

The Inspector found that the main issue was whether the development proposed is acceptable with regard to the principle of sustainable development.

In dismissing the appeal, the Inspector made the following comments:

*Principle of the development proposed*

- The general thrust of development policies is to seek to direct the majority of new housing development towards Newcastle town centre and other identified significant urban centres. New housing is prioritised in favour of previously developed land where a range of services can be accessed by foot, public transport and cycling. A number of key Rural Service Centres are also identified.
- Baldwin's Gate is not an identified Rural Service Centre, it is identified as a village and the Core Spatial Strategy (CSS) indicates that no further growth is planned for the villages. The appeal site is approximately 1km from the development boundary of the village and is therefore within the open countryside.
- The appeal site is not therefore in a location where the Development Plan would support new open market housing and the principle of the development conflicts with policy.

*Housing land supply*

- It is common ground between the parties that the Council is currently unable to demonstrate a five year supply of housing land in line with the requirements of the National Planning Policy Framework (NPPF). As such paragraph 49 of the NPPF is relevant to the consideration of the appeal. The paragraph states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- As policies SP1 and ASP6 of the CSS and policy H1 of the Local Plan seek to control the supply of housing in terms of its spatial distribution and to restrict the provision of new housing in some rural locations, these policies are relevant to the supply of housing. They are not therefore up-to-date for the purposes of paragraph 49 of the NPPF. Paragraph 14 of the NPPF indicates that where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

*Whether sustainable development – accessible location*

- Paragraph 7 of the NPPF confirms that there are three dimensions to sustainable development: economic, social and environmental. Paragraph 55 also states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The paragraph goes on to state that new isolated homes in the countryside should be avoided, unless there are special circumstances which include where the development would re-use redundant

or disused buildings. The proposed development does not comply with this particular exception.

- Although the appeal site is directly opposite Slater's the area is otherwise defined by an open, agricultural landscape with views of scattered farmhouses and dwellings. The appeal site is therefore in a rural location.
- There is some dispute between the main parties as to whether or not the appeal site is in an accessible location in terms of goods and services that future occupants would rely on to meet their day to day needs. In this regard two appeals were brought to the Inspector's attention. One relating to residential development close to the appeal site (14/00875/OUT) which concluded that the proposed site would not be sustainable. The other, the erection of a warehouse on the appeal site (14/000011/FUL) when it was found on balance that the proposal would not harm the interests of sustainable development. The Inspector in this case gave greater regard to the conclusions within the appeal relating to residential development.
- Taking into consideration the distance of the site from Baldwin's Gate; the limited bus service; and that it is likely that future occupants undertaking large weekly food shops or travelling with children may well find the use of the private car as more convenient, the Inspector concluded that it is likely that future occupants would undertake the majority of trips via the car.
- The Inspector concluded that the development proposed would be in an isolated location and would not enhance or maintain the vitality of rural communities and as such would conflict with paragraph 55 of the NPPF.

#### *Other sustainable development considerations*

- Moderate weight was given to the modest contribution to the supply of housing overall and the re-use of some previously developed land.
- The Inspector considered that the existing building on site is not an unduly discordant or harmful feature to the visual appearance of the area. Whilst appearance, scale and siting are reserved matters there is no indication that the two dwellings proposed would cause undue harm to the character and appearance of the area. However the lack of harm in this respect is a neutral matter that does not weigh in favour of the appeal proposal.
- The removal of a sycamore tree that is showing some signs of disease and the retention of the remaining trees and hedgerows is also a neutral matter.
- There are no highway safety concerns or specific accident data relating to the use of the existing access in its current location. The provision of a new access and the incorporation of disabled parking facilities and dedicated parking spaces, which would be required in any event, is also therefore a neutral matter.
- Given that the site currently has an agricultural appearance that blends visually with the surrounding countryside any alteration in the existing landscaping arrangements on the site would also have a neutral affect overall on the character and appearance of the area.
- The appellant refers to permitted development rights to change the use of the existing building to a single dwelling, but there is no evidence that the appellant has formally applied to the Council to do this. Indeed the Council disputes whether the permitted development rights could be exercised in this case on the basis of the extent of the alterations that would be required to make the existing building fit for residential use. Limited weight was therefore attached to this 'fall-back' position.

#### *Overall conclusion*

- The Development Plan would not normally permit new open market housings, but due to the lack of a five year supply of housing land, the Inspector attached less weight to the conflict with policies and has gone on to consider the merits of the proposal in light of the relevant sustainable development considerations in accordance with paragraph 14 and 49 of the NPPF.
- There are elements that weigh in favour of the appeal proposal, and several neutral issues. On the other hand, the proposed dwellings would be in a location where future occupants would be likely to be reliant on the private car in order to access everyday goods and services and the site is in an isolated countryside location and as such would fail to enhance or maintain the vitality of rural communities to any



meaningful extent. Paragraph 55 of the NPPF confirms that new isolated homes in the countryside should be avoided, except in the special circumstances listed none of which are relevant to the appeal proposal.

- The adverse impacts of the appeal proposal do significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The development proposed does not therefore amount to a form of sustainable development and the NPPF's presumption in favour does not apply.

**Recommendation**

**That the decision be noted.**

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**APPEAL BY WESTERN ESTATES LTD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE DEMOLITION OF FORMER SWIMMING BATHS AND CONSTRUCTION OF 273 ROOM STUDENT DEVELOPMENT WITH ASSOCIATED COMMUNAL AREA AND CAR PARKING (ALTERNATIVE TO PLANNING APPROVAL 15/00166/FUL) AT FORMER JUBILEE BATHS, BRUNSWICK STREET.**

**Application Number**                    16/00244/FU

**LPA's Decision**                         Refused by Planning Committee on 24 May 2016

**Appeal Decision**                        Dismissed

**Date of Appeal Decision**            13 February 2017

The Inspector indicated that a planning obligation under Section 106 of the Town and Country Planning Act 1990 (S106) had not been submitted by the time of her site visit, despite the appellant's stated intention. A draft obligation was provided by the extended deadline however this had no legal effect as it had not been signed or dated. Under the approach set out in the Planning Inspectorate's Procedural Guidance, the Inspector was not required to delay the issuing of a decision to allow further time for a dated legally binding obligation to be submitted and as such the appeal was determined without such an obligation.

The Inspector found that the main issue was the effect of the development on the living conditions of the occupants of neighbouring residential properties with particular regard to on street car parking and congestion.

In dismissing the appeal, the Inspector made the following comments:

- The Council's parking standards would require the provision of a maximum of 69 parking spaces to serve the development. The 19 spaces proposed equate to just over 27% of the maximum standard. The Council accepted, in the previous scheme, a lower level of car parking, around 34% of the requirement in recognition that Keele University has measures in place to discourage students from using a car to access the campus and that the appeal site is located very close to the bus station with regular services to the University.
- The development would increase the number of student rooms by approximately 12% and reduce the number of parking spaces by less than 2%. Paragraph 17 of the National Planning Policy Framework (NPPF) encourages the management of growth to make the fullest possible use of public transport, walking and cycling and focus development in locations which are or can be made sustainable. The appeal development is in such a location. The site would also be within cycling distance of the University and the scheme would provide 110 cycle parking spaces.
- The appellant's Transport Statement and draft Travel Plan indicate that a car park management strategy would be implemented and the measures within it (including the need for students to sign a charter which stipulates that they would not have a car at the site) are to be supported.
- The Council has concern that despite being discouraged some students may wish to have a car available. Students would be discouraged from the use of nearby public car parks due to the parking fee and possibly time limitations. They would therefore tend to park on nearby residential streets with no parking restrictions. The residential streets within a 10-15 minute walk time that the Council highlighted are relatively narrow and at the time of the Inspector's visit had a number of parked vehicles. The Inspector accepted that additional parking in these locations by students vehicles would result in increased parking stress resulting in the possibility that residents having to parking further away from their homes; the residential streets would become more congested reducing the quality of the residential environment and adversely affecting the living conditions of the residents.
- In respect of the previous approved scheme, in line with local plan policy, and in order to protect the amenity the Council imposed a planning condition requiring surveys of parking on residential streets to be undertaken before and after the occupation of the development to demonstrate if an increase in on street parking had occurred. In

addition a Section 106 agreement was signed to secure a sum of money to fund resident car parking zones in the affected areas if these proved to be necessary.

- Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The Inspector was provided with no evidence that the increase in student rooms and loss of two parking spaces would have such an impact.
- The Inspector had to have regard to the measures agreed in the previous approved scheme and on the basis of the evidence before her; the same requirements are appropriate and necessary in the appeal case. In the absence of a S106 these measures cannot be secured and this weighs heavily against the development.
- The appellant made reference to the NPPF which states that student accommodation can be included towards the Borough's housing requirement based on the amount of accommodation it releases in the housing market. The Council commented that there is no evidence to that effect and therefore the development cannot be said to contribute to housing supply. In any event, whilst the council cannot demonstrate a five year supply of housing this matter does not alter the Inspector's overall conclusions.
- The contribution the Council sought to public open space is necessary in line with policy CSP5. However without a legally binding planning obligation an appropriate contribution cannot be secured and the proposed development would not comply with policy.

#### *Conclusion*

- The appeal proposal would be located in a very accessible and sustainable location. However the limited on site car parking for students could result in additional parking stress on nearby residential streets adversely affecting the amenity of residents. In line with the approved scheme on the site, it is necessary that appropriate measures are in place to control and manage on street car parking and to provide residents parking zones where required. In the absence of a legally binding planning obligation these measures cannot be secured. Accordingly it is concluded that the development would cause harm to the living conditions of the occupiers of nearby residential properties.

#### **Recommendation**

**That the decision be noted.**

## **Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund**

**All Saints' Church, Madeley (Ref: 16/17003/HBG)**

### **RECOMMENDATION:**

**That the following grant is approved:-**

**£1,122 for repointing and stonework repairs to All Saints' Church, Madeley, subject to the appropriate standard conditions**

### **Purpose of report**

To enable members to consider this application for financial assistance.

All Saints' Church, Madeley is a Grade I Listed Church within the centre of Madeley Conservation Area. Built from pink ashlar sandstone with tile and lead roofs, the church has 12<sup>th</sup> century origins but was remodelled in 14<sup>th</sup> and 15<sup>th</sup> centuries and restored in 1872.

The tower (14<sup>th</sup> century) underwent high level repointing and stonework repairs last year following a five yearly survey in 2014. Funds for this work were raised through the Parochial Church Council and local donations. The Church now is looking for the low level repairs and repointing to the stonework to be completed and is asking for assistance towards the cost of the next phase of repairs. The work has been specified and tendered by a conservation accredited architect and your Conservation Officer is satisfied that the work is necessary and it is appropriate to support the grant.

The total cost of the works plus professional fees is estimated at £5,610 excluding VAT (which is recoverable). The works are eligible for grant up to 20% of the total cost.

The Conservation Advisory Working Party is being asked for its views on this application and they will be reported to the Committee.

### **Financial Implications**

There is sufficient funding to meet this grant application with £33,000 in the Fund allowing for commitments.

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## **Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund**

**Station House, Baldwins Gate (Ref: 16/17004/HBG)**

### **RECOMMENDATION:**

**That the following grant is approved:-**

**£1,924 for sash window repairs at Station House, Baldwins Gate, subject to the appropriate standard conditions**

### **Purpose of report**

To enable members to consider this application for financial assistance.

Station House is a Grade II Listed Building within the centre of Baldwins Gate. It is an early 19<sup>th</sup> house, roughcast rendered with a hipped roof and wide projecting eaves. Sash windows exist throughout.

In most cases the windows are in need of an overhaul and mostly are painted shut. The owner has received two competitive quotations and the windows have been assessed by competent and recognised joinery companies. Each window has been individually assessed and is being repaired where necessary; some sections replaced and overhauled to ensure the windows are functioning correctly.

The total cost of the works is estimated at £ 9,620 including VAT. The works are eligible for grant up to 20% of the total cost because the building is a Listed Building. The Conservation Officer is satisfied that the contractor is a qualified joiner who can replicate the mouldings on the windows and successfully repair these historic windows and fully supports the grant application.

The Conservation Advisory Working Party is being asked for its views on this application and they will be reported to the Committee

### **Financial Implications**

There is sufficient funding to meet this grant application with £33,000 in the Fund allowing for commitments.

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## **Confirmation of Tree Preservation Order**

Sycamore tree at Mersey Road, Clayton

### **Tree Preservation Order No 178 (2016)**

Town & Country Planning Act 1990

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

### **The Provisional Order**

The Provisional Tree Preservation Order protects an individual mature Sycamore, situated in a visually prominent roadside position to the front of garages on Mersey Road.

The provisional Tree Preservation Order was served using delegated powers on 29/09/16. The consultation period ended on 27/10/16

Approval is sought for the order to be confirmed as made.

**The 6 month period for this Order expires on 29<sup>th</sup> March 2017**

### **RECOMMENDATION**

That Tree Preservation Order No 178 (2016), Mersey Road, Clayton be confirmed as made and that the owners of the site be informed accordingly.

### **Reasons for Recommendation**

#### **Background**

The individual Sycamore is clearly visible from Mersey Road and from some positions on Wye Road. The canopy of this tree can be seen above the rooftops of bungalows on Welland Road.

It is considered that the Sycamore has a high amenity value and that its loss or disfigurement would have a negative impact upon the visual amenity, not only of the site but the locality.

The tree is in generally in good condition, although it does have some deadwood in the crown. It has a union at around 1.5m which shows no sign of weakness. It is noted that the tree has some wounds which show good occlusion. It is recommended that a further inspection of these wounds is carried out by the owner of the tree. Your officers are of the opinion that the tree has the prospect of continuing to provide visual amenity for many years to come.

The making of the Order will not prevent the owner from carrying out good management of the trees, nor improving or developing the site, and it will give the Council the opportunity to control the works and prevent unnecessary cutting down, lopping, topping, uprooting, wilful damage or wilful destruction.

## **Representations**

Following the consultation period no representations were received.

## **Issues**

Your officers assessed the long term long-term visual amenity of all of the trees on this site, after a planning application was submitted which indicated that trees on the site may be in the way of a proposed development. Consequently there was a risk that the trees may be felled.

A request to consider the protection of trees on this site was also made by a member of the public, who had concerns that trees may be removed to make way for a new development.

Following the assessment of all of the trees on the site, some were found to not meet the criteria for protection through a Tree Preservation Order.

Your officers are of the opinion that the individual Sycamore tree that is now covered by this provisional order is generally healthy at present, and is of sufficient amenity value to merit the making of a permanent Tree Preservation Order.

Your officers consider that in order to protect the long-term wellbeing of the tree it should be protected by a permanent Tree Preservation Order

## **Date report prepared**

10<sup>th</sup> February 2017