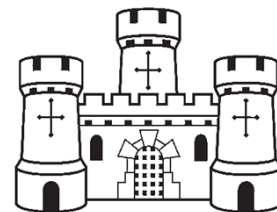


Public Document Pack

Date of meeting Tuesday, 28th March, 2017
Time 7.00 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

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 Apologies
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 8)
To consider the minutes of the previous meeting(s).
- 4 **Application for Major Development - Former Corona Park, Sandford Street, Chesterton. Goodridge/ Naismiths Ltd. 17/00026/DOB** (Pages 9 - 14)
- 5 **Application for Major Development - Hazeley Paddocks, Keele Road, Madeley Heath. Sophie Thorley. 17/00073/FUL** (Pages 15 - 24)
- 6 **Quarterly Report on Progress on Enforcement Cases Where Enforcement Action Has Been Authorised.** (Pages 25 - 30)
- 7 **Open Enforcement Cases** (Pages 31 - 32)
- 8 **TREE PRESERVATION ORDER - 106 LANCASTER ROAD, NEWCASTLE. TPO 179**
Report to follow
- 9 **Appeal Decision - Pepper Street, Keele. 16/00004/ENFNOT** (Pages 33 - 34)
- 10 **URGENT BUSINESS**

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

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

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

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

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

FIELD_TITLE

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

PLANNING COMMITTEE

Tuesday, 28th February, 2017

Time of Commencement: 6.30 pm

Present:- Councillor Bert Proctor – in the Chair

Councillors Burgess, S Hambleton, Heesom,
Holland, Northcott, Panter, Pickup,
Reddish, Simpson, Spence, Turner,
G Williams and J Williams

Officers Nick Bromley, Geoff Durham, Rachel
Killeen, Elaine Moulton, Peter Stepien,
Trevor Vernon and Darren Walters

1. **APOLOGIES**

Apologies were received from Councillors' Mancey, Snell and Sweeney.

On behalf of the Committee, the Chair sent best wishes to Councillor Mancey for a speedy recovery.

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 2 February, 2017 be agreed as a correct record.

4. **APPLICATION FOR MAJOR DEVELOPMENT - THE HOMESTEAD, SANDY LANE, NEWCASTLE. THE WREKIN HOUSING TRUST. 16/00880/FUL**

Resolved: (i) That, with the variation of condition 2, which lists the approved plans, to include the plan which includes the alterations to the design of the roof over the kitchen, the application be permitted subject to the imposition of all other conditions of 14/00476/FUL that remain relevant at this time.

(ii) That it be agreed that it is expedient to take enforcement action against the unauthorised balustrading, requiring that the metal railing balustrading be removed and replaced with glass balustrading as approved by the Local Planning Authority within 3 months from the date that the enforcement notice takes effect, for the following reasons:-

(a) it appears that the breach of planning control has taken place within the last four years;

- (b) the retention of the metal railing balustrading does not provide sufficient noise mitigation for the terraced area from the traffic noise on Brampton Road/Sandy Lane and as such the development conflicts with the aims and objectives of the National Planning Policy Framework 2012, in particular the aim for the creation of healthy communities and the requirement to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- (c) that planning permission should not be granted for the retention of the metal railing balustrading as planning conditions could not overcome the objections to the development;
- (iii) 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 and then subsequently approved, the Council's solicitor be authorised to issue the enforcement notice for the reasons as set out above and/or any other notices and to take and institute any proceedings on behalf of the Council and any and all action authorised by the Town and Country Planning Act 1990 to secure the removal of the metal railing balustrading.

5. APPLICATION FOR MAJOR DEVELOPMENT - UNITS 21 AND 22 ROSEVALE ROAD, CRACKLEY, CHESTERTON. AIR LIQUIDE CALGAZ. 16/01089/FUL

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

- (i) 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
- (ii) 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
- (iii) Prior approval of an odour assessment, and an odour management and response plan
- (iv) Prior approval of a noise assessment, and implementation of mitigation measures

6. APPLICATION FOR MAJOR DEVELOPMENT - HOME FARM SITE, KEELE UNIVERSITY, KEELE. UNIVERSITY OF KEELE. 17/00012/FUL

Resolved: That a site visit be held in connection with this application at the

same time as the Committee undertake a site visit in connection with applications 16/01014/FUL, 16/01015/FUL and 16/01016/FUL.

7. APPLICATION FOR MAJOR DEVELOPMENT - SKY BUILDING. FORMER JUBILEE BATHS SITE, NEWCASTLE. WESTLAND ESTATES LTD. 16/00244/FUL

Resolved: 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.

8. APPLICATION FOR MINOR DEVELOPMENT - MULTI STOREY CAR PARK, THE MIDWAY, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 16/01047/DEEM3

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

- (i) Commencement of development within 3 years
- (ii) Development in accordance with the submitted plans
- (iii) Colour of the roller shutter doors to be dark grey or another dark recessive colour to be agreed.
- (iv) The pedestrian gates shall open inwards away from the highway.
- (v) Permission to enure for benefit of Newcastle under Lyme Borough Council only

9. APPLICATION FOR MINOR DEVELOPMENT - LAND AT SELBOURNE, PINEWOOD ROAD, ASHLEY. MR P MARSON. 16/01107/OUT

Resolved: (A) That, subject to the applicant first entering into a Section 106 obligation by 31st March 2017, to secure a contribution of £2,943 per dwelling to improvements to facilities at Burntwood playground and their maintenance,

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) Visibility splays
- (v) Access width
- (vi) Layout of site including disposition of buildings and provision of parking within the curtilage
- (vii) Surfacing materials for access and parking areas
- (viii) Details of alignment of utility apparatus
- (ix) Hard and soft landscape design
- (x) Tree retention and protection
- (xi) Details of any gates to the access

(B) That, failing completion of the above planning obligation by

the date referred to in the above recommendation, 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

10. APPLICATION FOR OTHER DEVELOPMENT - KEELE HALL, UNIVERSITY OF KEELE, KEELE. UNIVERSITY OF KEELE. 17/00030/LBC

Resolved: That the application be deferred for a site visit on 18 March, 2017

11. PROPOSED ARTICLE 4 DIRECTION FOR STUBBS WALK CONSERVATION AREA

Resolved: That the making of a non-immediate Article 4 Direction for Stubbs Walk Conservation Area on the terms set out in the report be agreed.

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

Resolved: (i) That the report be noted
(ii) 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.

13. APPEAL DECISION - DWELLING AT 114 MOW COP ROAD, MOW COP. 16/00389/FUL

Resolved: That the decision be noted.

14. APPEAL DECISION - DUNNOCKSFIELD HOUSE, NEWCASTLE ROAD, MADELEY. 16/00341/OUT

Resolved: That the decision be noted.

15. APPEAL DECISION. HIGHDOWN, ELDEERTREE LANE, ASHLEY. 16/00343/OUT

Resolved: That the decision be noted.

16. APPEAL DECISION - TELEPHONE EXCHANGE, BLORE ROAD, HALES. 16/00629/FUL

Resolved: That the decision be noted.

17. APPEAL DECISION - HAZELWOOD BARN, BALTERLEY GREEN ROAD, BALTERLEY. 16/00640/COU

Resolved: That the decision be noted.

18. APPEAL DECISION - LAND ADJACENT TO MAERFIELD GATE FARM, STONE ROAD, BLACKBROOK. 16/00460/OUT

Resolved: That the decision be noted.

19. **APPEAL DECISION - SITE OF FORMER JUBILEE BATHS, OFF BRUNSWICK STREET, NEWCASTLE. 16/00244/FUL**

Resolved: That the decision be noted.

20. **APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) -ALL SAINTS CHURCH, MADELEY. 16/17003/HBG**

Resolved: That a grant of £1,122 for repointing and stonework repairs to All Saints' Church, Madeley be approved subject to the appropriate standard conditions

21. **APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - STATION HOUSE, BALDWINS GATE. 16/17004/HBG**

Resolved: That a grant of £1,924 for sash window repairs at Station House, Baldwins Gate be approved subject to the appropriate standard conditions

22. **TREE PRESERVATION ORDER - MERSEY ROAD, CLAYTON. TPO178**

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

23. **URGENT BUSINESS**

The following item had been brought to this Committee due to the matter of timing and completion date of 3 April, 2017.

24. **AUDLEY WORKINGMEN'S CLUB, NEW ROAD, BIGNALL END. SANDYCROFT CONSTRUCTION LTD. 16/01036/FUL**

Resolved: (i) That the date by which substantial commencement must be achieved be the 27th July 2017, failing which a financial reappraisal will be required (should the development referred to in planning application 16/01036/FUL be proceeded with) in order to establish whether the development should make policy compliant contributions
(ii) That the date by which the agreement must be completed (for planning permission to be granted) now be 3rd April 2017.

25. **STARTING TIME OF MEETINGS**

Councillor Holland commented on the change of the start time of the meeting. Whilst he appreciated that in some instances it is justifiable due to the amount of business, this evening's meeting had been concluded in one and a half hours. He stated that some Members found it difficult to attend earlier due to work commitments and that some members of the public also found it difficult to attend if they were working.

COUNCILLOR BERT PROCTOR

Chair

Meeting concluded at 8.00 pm

**FORMER CORONA PARK, SANDFORD STREET, CHESTERTON
MR. GERALD GOODRIDGE**

17/00026/DOB

The applicant has made a formal application under Section 106A of the 1990 Town and Country Planning Act to discharge the planning obligations entered into on the 14th December 2010 by Mr. Gerald Richard Goodridge and the Borough Council prior to the grant of outline planning permission (10/00480/FUL) for the erection of 16 terraced dwellings.

The completed S106 agreement secured policy compliant affordable housing and a financial contribution towards public open space.

The 8 week determination period for this application expires on 10th April 2017

RECOMMENDATION

That the application to discharge the S106 agreement be approved.

Reason for Recommendation

The application has demonstrated that the scheme is financially unviable with any level of affordable housing or financial contribution towards public open space and if the policy compliant obligations were sought the development could not proceed to completion. Therefore it is accepted that the obligations no longer serve a useful purpose because they would stall the development which would result in the eight remaining houses not being constructed.

Key Issues

The application under Section 106A of the 1990 Town and Country Planning Act seeks to discharge the planning obligations entered into on the 14th December 2010 prior to the grant of outline planning permission (10/00480/FUL) for the erection of 16 terraced dwellings. The completed S106 agreement secured 25% Affordable Housing and a financial contribution of £47,088 towards Public Open Space (POS). Subsequent to the completion of the agreement the Committee agreed to defer the triggers within the completed agreement, in order to assist with the viability of the scheme, although the legal agreement was never formally amended to give effect to this decision.

Section 106A of the 1990 Town and Country Planning Act indicates that the obligation can be discharged if it serves no useful purpose.

The National Planning Policy Framework has been published since the agreement was completed and states at paragraph 173 that: 'to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking in account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.'

The planning application that the secured S106 agreement relates to was permitted on the 7th December 2010 and eight of the dwellings have been constructed and sold. Part of the development has been undertaken but neither of the revised triggers have yet been met.

Prior to the making of this application a financial viability report was submitted to the LPA in an attempt to demonstrate that the construction of the eight remaining dwellings and associated demolition and development works cannot proceed with the planning obligations in place.

The District Valuer's advice has been obtained by the Authority and that advice has concluded that the development is by some considerable margin financially unviable with any level of affordable housing or financial contribution towards POS. On the basis of this advice your officers recommend that the S106 should be discharged to enable the applicant to proceed with the construction of the remaining dwellings which would contribute to the delivery of housing in a sustainable urban location within the Borough. It would also enable a currently stalled housing site to be completed. However it is

not considered necessary, should the development not be progressed promptly, to require a reappraisal of the financial position (and potential requirement for contributions if viability was then demonstrated) - given the stage that the development has already reached is beyond "substantial commencement" and its limited scale.

APPENDIX

Relevant Material Considerations include:

National Planning Policy Framework (NPPF) (2012)
Planning Practice Guidance (PPG) (2014)
DCLG document 'Section 106 Affordable Housing Requirements Review and Appeal' (April 2013)
Developer Contributions Supplementary Planning Document

Views of Consultees

None undertaken

Representations received

None received to date

Applicant's/Agent's submission

The application has been submitted by a covering letter seeking the removal/ discharge of the obligations of the S106 agreement. A copy of the S106 agreement and the Financial Viability Appraisal have also been submitted for consideration as part of the application. All of this information is available to view via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00026/DOB>

Background papers

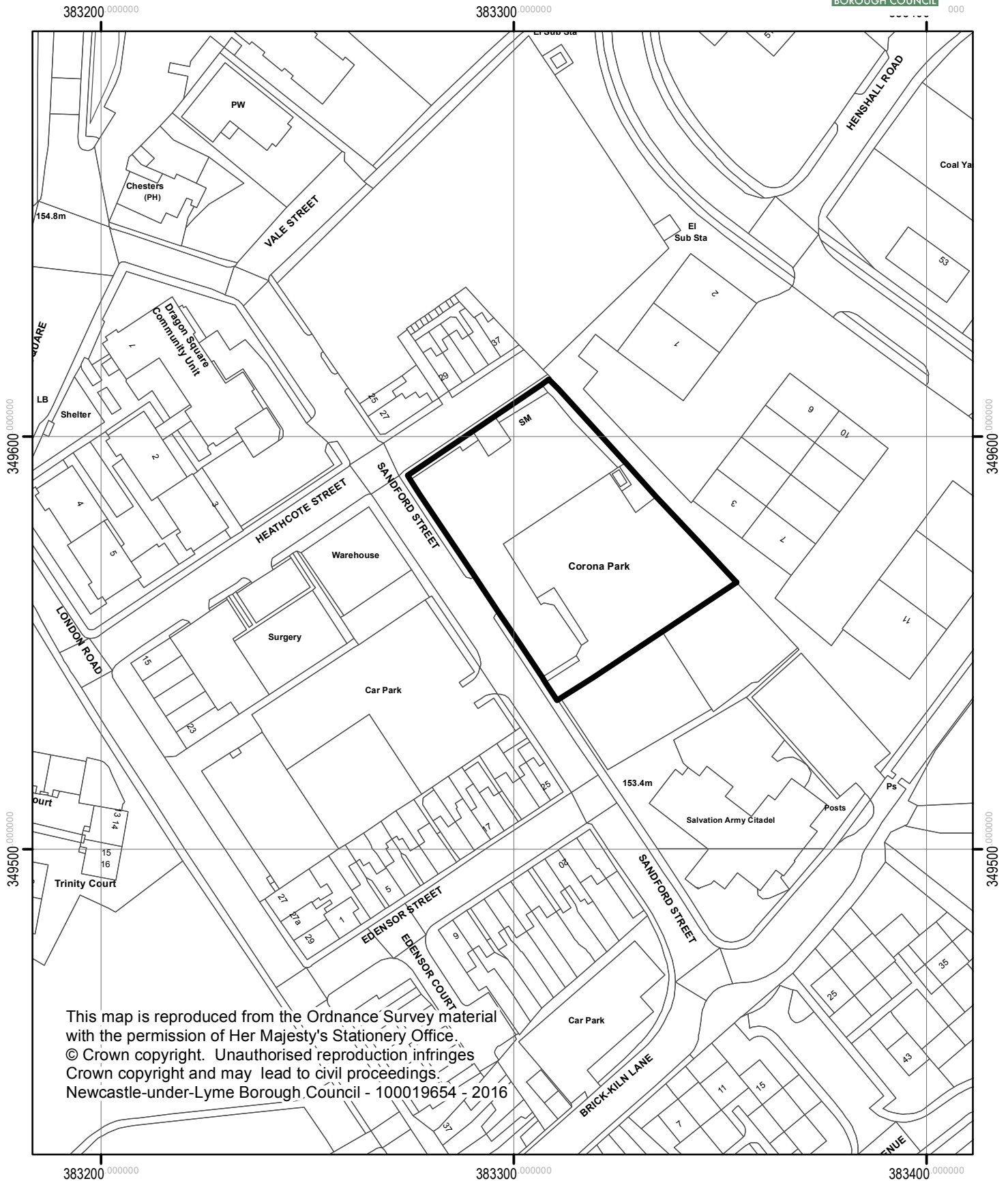
Planning files referred to
Planning Documents referred to

Date report prepared

10th March 2017

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17/00026/DOB
Former Corona Park
Sandford Street
Chesterton



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HAZELEY PADDOCKS, KEELE ROAD, MADELEY HEATH
MS SOPHIE THORLEY

17/00073/FUL

The Application is for full planning permission for the conversion of a stable block to a residential dwelling, involving partial demolition and rebuild.

The existing access would be utilised off Keele Road which serves the application site and a neighbouring residential dwelling.

The application site is located within the open countryside on land designated as being within the North Staffordshire Green Belt and an Area of Landscape Restoration (policy N21), as indicated on the Local Development Framework Proposals Map.

The 8 week determination period expires on the 3rd April 2016.

RECOMMENDATION

Permit, subject to the following conditions

- 1. Commencement of development within 3 years**
- 2. Development in accordance with the submitted plans**
- 3. Materials**
- 4. Submission and approval of a method statement for conversion works, including large scale joinery plans/ details**
- 5. Submission and approval of boundary treatments to rear garden (patio area)**
- 6. Design Measures to Secure Noise Levels**
- 7. Visibility Splays shown on drawing no. 380-01/GA-02 rev A and kept free from obstruction**
- 8. Access, parking and turning areas provided prior to occupation**
- 9. Removal of Permitted Development Rights for extensions, roof alterations and outbuildings**
- 10. No conversion/ construction works during March-August inclusive**
- 11. Prior approval for proposals for the treatment of the roadside hedgerow and a soft landscaping scheme**
- 12. Erection of bat and bird boxes**

Reason for Recommendation

Whilst the proposal includes inappropriate development in the Green Belt it is considered that the openness of the Green Belt would be preserved. Taking the visual improvements that would arise from the development in addition to the lack of harm to openness, it is considered that this represents the very special circumstances necessary to justify the development. Whilst there would be reliance upon the use of private motor vehicles to access daily services this would not significantly and demonstrably outweigh the benefits identified. In these circumstances, planning permission should be granted

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

Pre application discussions were undertaken between the applicant and the LPA and this has resulted in a number of supporting documents and plans being submitted with the planning application and no further documents have had to be submitted during the application. The development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

The application is for the conversion of the stable block to a residential dwelling. The proposal includes partial demolition and rebuild.

The site lies within the open countryside which is designated as being within the Green Belt and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The existing access would be utilised off Keele Road which serves the application site and a neighbouring residential dwelling.

The main issues for consideration in this application are;

- Is the proposal appropriate development within the Green Belt?
- Does the proposal comply with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?
- Does the proposal comply with policies on the location of new housing?
- Residential amenity issues,
- Highway matters, and
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

Is the proposal appropriate development within the Green Belt?

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

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

Paragraph 89 of the NPPF indicates the types of development involving the construction of new buildings that are not inappropriate in the Green Belt. Paragraph 90 sets out that “certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.

The building consists of a brick built barn with an attached timber stable which is of a plywood and timber frame construction. The applicant indicates that the brick built stable can be converted without substantial works but the plywood stable would need to be replaced.

The existing barn and stable buildings have a combined volume of 210 cubic metres and the proposed resultant building would have a volume of 270 cubic metres. The volume of the building would therefore be increased by 60 cubic metres which would amount to a percentage increase of approximately 28%. This is not considered to represent a disproportionate addition and as such it is concluded that it amounts to appropriate development as set out in paragraph 89 of the NPPF.

The submission demonstrates that the building is of permanent and substantial construction and is capable or reuse without substantial elements of repair and rebuild. Whilst the new build element of the proposal is larger than the wooden stable it replaces it is considered that the openness of the Green Belt will be preserved given the limited scale of the proposed extension and its location in a position where an existing structure already has an impact on openness. In light of these factors, and as the proposal would not conflict with any of the purposes of including land in Green Belt, it is concluded that it also amounts to appropriate development as set out in paragraph 90 of the NPPF.

The proposed change of use of land from paddock and stable yard to domestic curtilage does not amount to appropriate development as set out in the NPPF, however.

Given that the proposal involves inappropriate development within the Green Belt, consideration of any very special circumstances will be addressed below.

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

Local Plan policy H9 indicates that before the conversion of rural buildings for living accommodation can be considered, evidence must be provided to show that the applicant has made every reasonable attempt to secure a suitable business use for the premises, subject to Policy E12. Where this has been done the residential conversion of buildings in sustainable locations can be considered favourably provided a series of criteria are met that include the requirement that the building does not require reconstruction, extension or substantial alteration and its form bulk and general design is in keeping with its surroundings. A further requirement is that a survey must be undertaken to ascertain whether any statutorily protected wildlife species are present and if so, measures must be taken to provide for their conservation.

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

The application site is within the open countryside and no evidence has been submitted by the applicant to show that any attempt has been made to secure a suitable business use for the property. However, the NPPF does not suggest that the employment reuse of a building should be ruled out before residential reuse can be favourably considered. This aspect of Development Plan policy is not, therefore, consistent with the NPPF and limited weight can therefore be given this policy requirement.

An Ecological Report has been submitted which concludes that the buildings at the site are likely to be used by nesting birds during the breeding bird season but not by any other protected species. Therefore it is recommended that construction works avoid taking place during the breeding bird season (March-August inclusive). Further enhancements which include bird and bat boxes are also advised to comply with the NPPF.

Consideration is given as to whether the site is in a sustainable location in the next section.

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

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

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

Policy ASP6 of the adopted Core Spatial Strategy states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements. The site also lies beyond the Major Urban Area of North Staffordshire and is not within a Rural Service Centre. It is not considered that the proposed dwelling would serve a wider local need nor would it support local services.

As discussed Paragraph 55 of the NPPF states that LPAs should avoid new isolated homes in the countryside unless there are special circumstances such as where the development would reuse redundant or disused buildings and lead to an enhancement to the immediate setting.

The Local Planning Authority is currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF).

The NPPF advises in paragraph 49 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.”

Accordingly policies such as NLP H1 and CSS ASP6 have to be considered to be ‘out of date’, at least until there is once again a five year housing supply.

Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development and that for decision-taking this means where the development plan is absent, silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the framework indicate development should be restricted. The examples given of specific policies in the footnote to paragraph 14 indicate that this is a reference to area specific designations such as Green Belts. This site is within the Green Belt and whilst it is considered to be inappropriate development within the Green Belt if there are very special circumstances which outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm.

As set out above, it is acknowledged that the application building is located within the open countryside away from any services and amenities. The site has footpath links to the villages of Keele, Madeley and Madeley Heath, however, and a bus service operates along Keele Road. Therefore whilst it is reasonable to conclude that the occupiers of the property would be primarily reliant on travel by private car to access local services such footpath links and public transport would offer some encouragement to utilise other modes of travel in addition to the private car. The location of the site does, however, weigh against the proposal.

The proposed development provides some benefits. The proposal does make a small contribution to the supply of housing in the Borough. In addition there are some economic benefits that arise from the works required to convert the building, and from its occupation. Such benefits can be given modest weight. The environmental benefits that arise from the re-use of an existing building, which is inherently sustainable, can be given significant weight. In addition a further benefit that arises from the development is the visual enhancement that arises from the change of use of the stable yard to residential curtilage. In light of this visual enhancement it is considered that the proposal would not be in conflict with paragraph 55 of the NPPF and in light of this lack of conflict it is concluded that the proposal could be refused due to the conflict with NLP H9 regarding the requirement that conversion of buildings to residential use can only be supported where they are in sustainable locations.

Weighing everything in the balance it is considered that the adverse effect that the proposal would have in terms of its reliance on use of the private motor vehicle to access day to day services does not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.

The impact on highways safety

The proposed dwelling utilises the existing access onto Keele Road which serves the application site and a neighbouring residential dwelling. The existing lawful use of the site is a stable and paddock for the keeping of horses.

The existing access currently has poor visibility and the supporting Transport Statement indicates that it is necessary to provide improved visibility splays which requires the relocation of an existing hedge.

The submitted plans also show a car parking and turning area for the proposed dwelling.

The Highways Authority has raised no objections subject to conditions which secure the visibility splays and the parking and turning area. Subject to these conditions it is considered that the proposal would provide an acceptable level of off street car parking whilst also improving access arrangements to an acceptable level.

A condition which secures the relocation of the hedgerow outside of the bird nesting season and the details of the relocation are also advised.

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

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

The extension would also be of a good quality design and replace a structure that has no visual merit within the landscape, thus restoring the character and quality of the landscape as advised by policy N21 of the local plan. These considerations in such circumstances where the development would preserve the openness of the Green Belt would amount to the very special circumstances required to justify the proposed development in this instance.

The submitted plans show a rear patio area for the enjoyment of the proposed single dwelling. However, no details have been submitted for the extent of the residential curtilage of the property. The proposed rear patio area would provide an acceptable level of private amenity space and subject to a condition requiring the submission and approval of a boundary treatment around this area to define the residential curtilage of the dwelling it is considered that the openness of the Green Belt would not be harmed. Permitted development rights should also be removed for extensions, roof alterations and outbuildings to further protect the openness of the Green Belt and protect the amount of private amenity space which is limited.

APPENDIX

Policies and proposals in the Development Plan relevant to this decision:

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

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

Newcastle Under Lyme Local Plan 2011

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy H9: Conversion of Rural Buildings for Living Accommodation
Policy E12: The Conversion of Rural Buildings
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character - General Considerations
Policy N21: Area of Landscape Restoration
Policy T16: Development – General Parking Requirements

Other Material Considerations

Relevant National Policy Guidance:

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

Other Guidance

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

Planning for Landscape Change – Supplementary Planning Guidance to the Structure Plan 1996-2011

Relevant Planning History

None relevant

Consultation Responses

Madeley Parish Council raises no objections

The **Highways Authority** raises no objections subject to conditions which secure appropriate visibility splays and the provision of access, parking and turning areas prior to occupation.

Landscape and Development Section raise no objections subject to the imposition of a landscaping condition the help blend the development with the surrounding countryside setting and a condition requiring approval for the treatment of the roadside hedgerow to ensure it is protected and managed, and replacement planting undertaken behind the required visibility splay.

The **Environmental Health Division** has no objections to the application subject to a condition which secures appropriate design measures to minimise noise impact on future occupiers from road traffic on the adjacent Keele Road.

Natural England have indicated that they have no comments on the application

Representations

No representations received.

Applicants/agents submission

The requisite plans and application forms were submitted. A planning statement, design and access statement, transport statement and ecological appraisal report has been submitted to support the application which seeks to justify the development proposed. These documents can be viewed on the Councils website;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00073/FUL>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

14th March 2017

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Agenda Item 6

Planning Committee 28th March 2017

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

The purpose of this report is to provide details of progress made on those cases where enforcement action has been authorised either by the Planning Committee or under delegated powers. Members should note that many breaches of planning control are resolved without recourse to the taking of formal enforcement action.

Since the last report to the Planning Committee at its meeting on the 6th December 2016 no new case has been added to this list and one case has been closed. 5 cases are reported upon. Details of all the cases, the progress made within the last Quarter, and the targets for the next Quarter are contained within the attached Appendix.

RECOMMENDATION

That the information be received.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
14/00049/207C2	<p>Land off Pepper Street, Hollywood Lane, Newcastle.</p> <p>Unauthorised siting of a caravan for residential use.</p>	5.8.15	<p>An Enforcement Notice has been served which would have taken effect on 28th February 2016 had an appeal not been lodged. The EN requires the cessation of the use of the land residential purposes; the removal of the caravan and associated structures and paraphernalia; and the removal of any fencing erected on the perimeter of the land.</p> <p>The appeal was considered at an Inquiry on 14th February 2017 and a decision has now been received (which is reported elsewhere on this agenda). The Inspector upheld the notice and as such it took effect on the date of the appeal decision, 21st February. The steps set out in the notice have to be complied within six months i.e. by 21st August 2017.</p>	No targets within the next quarter.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
15/00037/207C2	<p>Land at Doddlespool, Main Road, Betley</p> <p>Breaches of conditions imposed on planning permission reference 14/00610/FUL for the retention of a water reservoir, formation of hardstandings and repairs to the existing track.</p>	20.4.15	<p>A Stop Notice (SN) and Enforcement Notice (EN) were served on 24th April 2015. The SN took effect on 30th April 2015. The EN took effect on 27th May 2015.</p> <p>Members have previously been advised that the owner has been prosecuted twice following his failure to comply with the terms of the notice. Following the last court case in November 2016 the owner was given a further period of time (until 15th December 2016) for compliance. It is understood that the portcabin and commercial trailer remain on site. The owner has, however, indicated that an application is to be submitted for the extension to his existing agricultural building which will then enable the portacabin and commercial trailer to be removed as they will no longer be required for animal welfare purposes. It is anticipated that this application will be submitted in the very near future.</p> <p>Members have also previously been advised that used tyres have been imported and deposited on the site which are being utilised in the construction of a fodder beat store and TB testing facility. Your officers previously concluded that expert advice is required on the key questions of whether such a structure is reasonably necessary for the purposes of agriculture within the unit and whether it is designed for the purposes of agriculture – in order to determine whether this is permitted development. The advice received is that the structure is larger than the needs which might be generated by the Doddlespool Unit but may be appropriate in respect of the unknown requirements of a wider agricultural unit of which it is a part. In addition the use of waste tyres is unusual and does not reflect the type of uses promoted in best practice guidance.</p> <p>This advice has been forwarded to the County Council, as the Waste Authority who have indicated that the advice received is not sufficient for them to conclude that a waste operation has taken place against which enforcement action would be justified.</p> <p>The waste that has been imported onto the site in the form of covered bails, previously reported, remains with the Environment Agency, in conjunction with the County Council, to address.</p>	<p>Reach a position as to what action, if any, is required in respect of the partially constructed fodder beat store and TB testing facility.</p> <p>Encourage the prompt submission of the application of the extension to the existing building so that portacabin and trailer can be removed as quickly as possible. If the application is not received pursue a further prosecution.</p>

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
14/00048/207C2	<p>Dairy House forming part of Hungerford House Farm, Hungerford Lane, Madeley</p> <p>Unauthorised subdivision into two dwellings</p>	13.7.15	<p>A retrospective planning application was received for the subdivision of Dairy House into two dwellings. The application was refused on the grounds that this is an unsustainable location for the creation of new residential dwellings and the subsequent appeal was dismissed.</p> <p>An EN was served requiring that Dairy House is reinstated to its previous condition prior to the subdivision, within six months of the notice taking effect. The EN took effect on 21st December 2015 as an appeal was not lodged.- the six month period finished on the 21st June.</p> <p>Following the vacation of the premises by the existing tenant a site visit has taken place which has established that the steps set out in the notice have been complied with and the breach of planning control has ceased. In light of this the case has been closed.</p>	CASE CLOSED
14/00036/207C3	<p>5 Boggs Cottages, Keele Road, Keele</p> <p>Unauthorised use of land for the siting of a mobile home</p>	5.1.16	<p>Following the resolution by Planning Committee at its meeting on 5th January 2016 resolved that the Head of Business Improvement, Central Services and Partnerships be authorised issue enforcement and all 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 for the removal of the mobile home and associated paraphernalia from the site within six months. The Notice was subsequently served and in the absence of any appeal has come into force on the 13th July 2016. Compliance was due by 13th January 2017 and a subsequent visit to the site has established that the Notice has not been complied with.</p>	<p>Write to the owner as to highlight that the Notice has not been complied with and that compliance with the Notice will be pursued. Within the letter the owner will be encouraged to set out a timetable for the removal of the caravan. Establish whether the Notice has been complied with, and, dependent upon the outcome of the planning application, either close the case or take further action as appropriate.</p>

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Progress/Action particularly that within last Quarter	Target for Next Quarter
08/00204/207	<p>Land off Keele Road, Newcastle</p> <p>Non-compliance with condition 9 of planning permission 11/00430/FUL for the erection of 61 dwellings (amended layout to that already approved including an addition 13 dwellings)</p>	20.10.16	<p>Various planning permissions have been granted for residential development on land off Keele Road, Newcastle (known as Milliner's Green). Due to the proximity of the site to the existing Scrap Yard (Hampton's) and landfill site (Walleys Quarry) certain of the planning permissions granted were subject to a requirement that an acoustic barrier should be installed along the western boundary of the site. A fence was erected and due to concerns about the standard of the fence when planning permission was granted in 2012 for the erection 61 dwellings (ref. 11/00430/FUL) a similar requirement was imposed.</p> <p>As the developer has not addressed the concerns expressed regarding the suitability of the fence, despite being approached by officers on a number of occasions and the developer offering assurances that works to the fence would start, it was decided that appropriate enforcement action was necessary. The action required is the replacement of the existing fence with an acoustic fence of a suitable standard.</p> <p>Following the decision to take action, Legal Services has drafted the notice which currently is being circulated for final agreement prior to service.</p>	Serve the required Notice.

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Report on Open Enforcement Cases

Purpose of the Report

To inform members of the current situation regarding the enforcement caseload.

Recommendations

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

Background

In accordance with previous Committee decisions, the format of this report shows existing and previous enforcement cases. The Table included in this report shows the total number of outstanding cases in one format (shown below).

In the last quarter (October – December 2016) a further 61 new cases have been reported, lower than the previous quarter (62). The current number of open cases is 278 (10 more than at the end of the last quarter). The number of open cases has therefore increased for the second consecutive quarter.

Officers are seeking to continue to make progress in tackling the backlog. A number of the cases indicate in the Table below have associated pending planning applications awaiting determination 7 as at 15 March 2017).

Conclusions

It remains inevitable that some cases in the 'backlog' will remain open for some time because of their complexity.

Progress continues to be made in tackling older cases and there is still a significant body of work being undertaken behind the scenes, which has led to progress in several complex cases. Officers' enforcement workload is regularly reviewed to ensure continuity and case progression, and will continue to be undertaken.

Current Outstanding Enforcement Cases

The Table below shows the current statistics in comparison to the previous Quarter.

Current Enforcement Status

Year	Total	Open	C1	C2	C3	BOC	L	M	H
2017	48	29	-	24	5	-	-	-	-
2016	259	59	1	38	20	-	-	-	-
2015	238	34	1	20	12	1	-	-	-
2014	212	44	-	33	11	-	-	-	-
2013	219	28	5	18	5	-	-	-	-
2012	229	24	8	11	5	-	-	-	-
2011	204	11	2	7	2	-	-	-	-
2010	206	9	2	6	1	-	-	-	-
2009	233	10	-	6	1	1	-	1	1
2008	276	10	-	-	-	-	3	7	-
2007	353	5	-	-	-	-	1	3	1
2006	280	6	-	-	-	-	2	3	1

2005	227	3	-	-	-	-	-	1	2
2004	252	1	-	-	-	-	1	-	-
2003	244	1	-	-	-	-	-	1	-
2002	247	3	-	-	-	-	-	2	1
2001	204	1	-	-	-	-	-	1	-

Open Cases **278**
(inc Backlog)

Previous Quarter **268**

Note for Table – C1, C2 and C3 are the categories agreed by the Planning Committee at its meeting on 17th February 2009 when it approved the Council’s Planning Enforcement Policy; BOC indicates that the case concerns a Breach of Condition, whilst L, M and H represent Low, Medium and High priorities respectively allocated to the pre-February 2009 cases

Date report prepared

15 March 2017

APPEAL BY MR KEVIN BROAD AGAINST THE SERVING OF AN ENFORCEMENT NOTICE BY THE BOROUGH COUNCIL AGAINST AN ALLEGED BREACH OF PLANNING CONTROL RELATING TO THE CHANGE OF USE OF LAND FROM GENERAL INDUSTRIAL USE (CLASS B2) TO RESIDENTIAL PURPOSES (CLASS C3), INCLUDING THE SITING OF A CARAVAN AND INCIDENTAL DEVELOPMENT CONSISTING OF SHIPPING CONTAINER, AND WOODN STRUCTURES IN CONNECTION WITH THE UNAUTHORISED CHANGE OF USE, ON LAND OF HOLLYWOOD LANE, NEAR PEPPER STREET, KEELE.

<u>Appeal Ref. Number</u>	16/00004/ENFNOT
<u>Decision</u>	Enforcement action authorised under delegated powers
<u>Appeal Decision</u>	Dismissed and the Enforcement Notice upheld with corrections
<u>Date of Appeal Decision</u>	1 February 2017

Procedural Matters

The Appellant withdrew his Ground (c) appeal (that there has been no breach of planning control) at the Inquiry.

It was agreed at the Inquiry the current use is not a use falling within Use Class C3 and an amendment to the Enforcement Notice is therefore required. It was also agreed that the Notice needed to be amended to reflect that fencing was not on the perimeter of the Appeal site but was within the site.

Relevant Background Matters

Within the decision letter the Inspector listed all relevant information and evidence produced by the Appellant and the Council. Such information and evidence is not listed within this report, however reference is made to certain background matters where it would assist in the understanding of the conclusions that the Inspector reached.

Does the Appellant have a Right to Appeal the Enforcement Notice?

The current landowner, Keele Homes Limited, indicated that the Appellant occupies the Appeal Site without their express permission and was therefore trespassing on their land. In such circumstances the Appellant would not have a right to appeal as he doesn't have a legitimate interest in the Appeal Site.

The Appellant described his interest in the Appeal Site as a 'tenant'. Evidence he gave on oath was that he initially occupied the land with the permission of the owner of Audley Timber, Jeff Banks, who operated from the site, and the then owners and when Mr Banks's interest in the site came to an end the Appellant stated that he had the permission of the owners to continue living on the site.

Keele Homes Limited did not attend the Inquiry to give evidence. In the absence of any evidence on oath that the Appellant's claim was untrue the Inspector concluded, on the balance of probabilities, that the Appellant does have an interest in the Appeal Site and therefore he is entitled to appeal the Enforcement Notice.

Appeal on Ground (d) that at the date when the Enforcement notice was issued, no enforcement action could be taken in respect of any breach of planning control.

The appeal on Ground (d) would succeed if the Appellant could show on the balance of probabilities that he had lived in motor home or caravan on the Appeal Site on or before the 11 January 2006 (the Relevant Date) which is 10 years before the serving of the Enforcement Notice. The onus rests with the Appellant.

In the judgement of the Inspector, the Appellant failed to show, on the balance of probabilities that he was living in either a motor home or caravan on or before the Relevant Date as there

was no evidence to support such an argument. The best case for the Appellant is that he commenced living on the Appeal Site in his motor home at some point in 2006 but he was unable to confirm with any precision a date when that residential use commenced.

The Appellant called a friend who lives within two miles of the Appeal Site and who worked from time to time for the operator of the business on the site. His evidence did not provide any clarity as to when the Appellant first occupied part of the Appeal site in his residential motor home.

The Inspector therefore concluded that the Appellant failed to demonstrate that the residential use commenced on or before the Relevant Date and that accordingly the appeal on Ground (d) must fail.

Ground (g) that the period specified in the Enforcement Notice falls short of what should reasonably be allowed.

The Appellant and his partner have a pig and a dozen hens on the site which are akin to pets rather than livestock.

The Appellant explained that there are vacancies on a nearby caravan site albeit that the site is only open 10 months a year and that his pets could not be taken to this site.

There was no convincing evidence before the Inspector, however that the six month period for compliance with the Enforcement notice falls short of what time is reasonable required to make alternative arrangements for the Appellant and his partner to find alternative accommodation and it makes provision for the ongoing care of their animals. The appeal on Ground (g) therefore fails.

Recommendation

That the decision be noted.