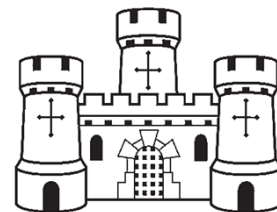


# Public Document Pack

**Date of meeting** Tuesday, 20th June, 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 - 10)  
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - ORCHARD HOUSE AND 35 CLAYTON ROAD, NEWCASTLE. BAC O'CONNOR. 17/00194/OUT** (Pages 11 - 24)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT- ST JOHN FISHER CATHOLIC COLLEGE, ASHFIELDS NEW ROAD, NEWCASTLE. ST JOHN FISHER CATHOLIC COLLEGE. 17/00156/FUL** (Pages 25 - 30)
- 6 **APPLICATION FOR MAJOR DEVELOPMENT - FORMER WOODSHUTTS INN, LOWER ASH ROAD, KIDSGROVE. ASPIRE HOUSING LTD. 17/00324/FUL** (Pages 31 - 38)
- 7 **APPLICATION FOR MAJOR DEVELOPMENT -FORMER ORME CENTRE, ORME ROAD, NEWCASTLE. GSG ORME CENTRE LTD. 16/00796/OUT** (Pages 39 - 44)
- 8 **APPLICATION FOR MINOR DEVELOPMENT - ST PETER'S CHURCH, MAER. ANDREW MAINWARING. 17/00219/FUL** (Pages 45 - 52)

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|----|--|-------------------|
| 9  | <b>APPLICATION FOR MINOR DEVELOPMENT - AUDLEY COMMUNITY CENTRE, NANTWICH ROAD, AUDLEY. MRS DOBSON. 17/00260/FUL</b>                        | (Pages 53 - 58)   |
| 10 | <b>APPLICATION FOR MINOR DEVELOPMENT - SLACKEN LANE. ASHGREEN LTD. 13/00266/CN06, CN07 AND CN11</b>  | (Pages 59 - 70)   |
| 11 | <b>APPLICATION FOR OTHER DEVELOPMENT - CORNER OF CHURCH LANE AND SILVERDALE ROAD, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 16/00312/DEEM3</b> | (Pages 71 - 76)   |
| 12 | <b>APPLICATION FOR OTHER DEVELOPMENT - LAND AT LOWER STREET, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 17/00315/DEEM3</b>                      | (Pages 77 - 82)   |
| 13 | <b>APPLICATION FOR OTHER DEVELOPMENT - FAIRFIELD HOUSE, BAR HILL ROAD, ONNELEY. MR &amp; MRS LEA. 17/00405/AAD</b>                         | (Pages 83 - 92)   |
| 14 | <b>HALF YEARLY REPORT ON PLANNING OBLIGATIONS</b>  | (Pages 93 - 102)  |
| 15 | <b>TREE PRESERVATION ORDER - 16 DIMSDALE PARADE EAST, NEWCASTLE. TPO 180</b>   | (Pages 103 - 106) |
| 16 | <b>CONFIRMATION OF ARTICLE 4 DIRECTIONS FOR THE BRAMPTON AND WATLANDS PARK CONSERVATION AREAS</b>  | (Pages 107 - 114) |
| 17 | <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, Heesom, Northcott, Panter, Proctor (Chair), Reddish, Simpson, Spence (Vice-Chair), Sweeney, White, G Williams, J Williams and Wright

**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, 23rd May, 2017  
Time of Commencement: 6.30 pm

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

Councillors Burgess, Fear, S Hambleton, Northcott, Panter, Reddish, Simpson, Spence, Sweeney, S Tagg, G Williams and J Williams

Officers Guy Benson, Geoff Durham, Jennet Hough, Trevor Vernon and Darren Walters

Prior to the commencement of business, a minute's silence was held in tribute to the victims of the attack on the Manchester Arena which happened yesterday.

1. **APOLOGIES**

Apologies were received from Councillors' Heesom, Turner and G White.

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 25 April, 2017, as circulated at the meeting, be agreed as a correct record.

4. **APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF MEADOW WAY, BALDWINS GATE. BELLWAY HOMES (WEST MIDLANDS). 16/01101/FUL**

*Proposed by Councillor Northcott and seconded by Councillor Panter*

**Resolved:** That no "advance" Planning Committee site visit be arranged.

5. **APPLICATION FOR MAJOR DEVELOPMENT- WM MORRISON SUPERMARKET, LOWER MILEHOUSE LANE, NEWCASTLE. WM MORRISON SUPERMARKETS PLC. 17/00137/FUL**

**Resolved:** That the variation of the condition be approved subject to all conditions from application 97/00792/OUT that remain relevant at this time and the undermentioned condition:

The opening hours of the retail foodstore hereby permitted shall be restricted to between the hours of 7.00am and 10.00pm Monday to Saturday and 9.00am to 6.00pm on Sunday, the exception being during the four days prior to Christmas Eve (excluding Christmas Eve

itself and any Sunday) during which the trading hours shall be from 06.00am to midnight.

**6. APPLICATION FOR MAJOR DEVELOPMENT - ASTON FARM, ASTON. MR & MRS MOTTERSHEAD. 17/00189/FUL**

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

- (i) Details of the colour stain of weatherboarding and roofing materials to be submitted to and approved in writing by the local Planning Authority
- (ii) Feed bins to be finished in a dark recessive colour.
- (iii) Prior approval of levels
- (iv) Landscaping scheme
- (v) Retention of hedgerow adjoining the building and protection measures during construction in relation to hedgerow and trees within hedgerow
- (vi) Routeing of servicing vehicles and type
- (vii) External lighting shall be as set out in the Design and Access Statement and submitted technical information unless otherwise agreed.
- (viii) Installation and retention of silencers on extraction fans of the same type and specification installed in connection with 10/00122/FUL
- (ix) Waste storage and disposal in accordance with the details set out in the submitted Design and Access Statement and Odour Assessment.

**7. APPLICATION FOR MAJOR DEVELOPMENT -LAND EAST OF HOME FARM, KEELE ROAD, KEELE. KEELE UNIVERSITY. 17/00193/FUL**

**Resolved:** (a) That, subject to the applicant entering into a Section 106 obligation by 7<sup>th</sup> June 2017 to secure financial contributions towards travel plan monitoring (£2,200) (unless the applicant agrees to extend the statutory period for the determination of the application to 8<sup>th</sup> July 2017 in which case the date for the applicant to enter into the obligation would be 7<sup>th</sup> July 2017)

the application be permitted subject to the undermentioned conditions:

- (i) Time limit.
- (ii) Approved drawings.
- (iii) Materials.
- (iv) Provision of parking, servicing and turning areas prior to the building being brought into use in accordance with the approved plans.
- (v) Provision of cycle parking prior to the building being brought into use in accordance with the approved plans.
- (vi) Travel Plan
- (vii) Landscaping details.
- (viii) Prior approval and implementation of a surface water drainage scheme

- (ix) Prior approval and implementation of a Construction Environmental Management Plan
- (x) Noise assessment for ventilation, extraction systems and other plant.
- (xi) Prior approval and implementation of appropriate ground gas mitigation measures

(b) Should the above Section 106 obligation 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 measures to ensure that the development achieves sustainable development outcomes, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

**8. APPLICATION FOR MAJOR DEVELOPMENT - NEW LOOK , PIT HEAD CLOSE, TALKE. NEW LOOK. 17/00240/FUL**

**Resolved:** That the removal of condition 4 be permitted subject to suitably worded conditions similar to those attached to planning permission 16/00712/FUL, unless they have already been discharged by the date of issue of the permission in which case the approved details will be referred to.

**9. APPLICATION FOR MAJOR DEVELOPMENT - FORMER JUBILEE BATHS, NELSON PLACE, NEWCASTLE. WESTLAND ESTATES LTD. 17/00252/FUL**

**Resolved:** (a) That, subject to the applicant entering into a Section 106 obligation by no later than 25<sup>th</sup> June 2017 , to secure the following:

- (i) a financial contribution to the enhancement and maintenance of an area of public open space of £219,172 (to be adjusted to reflect both indexation and interest since September 2016) and a travel plan monitoring fee of £2,200.
- (ii) a financial contribution of £50,000 to be used to fund Resident Parking Zones in the event that it has been demonstrated (through surveys secured by condition) that the development has resulted in on street parking problems.
- (iii) Payment of the capital element of the public open space and the Resident Parking Zone contributions within 2 weeks of the date of completion of the obligation, and of the maintenance element of the POS contribution on or before occupation of the development or 30 September 2017 (whichever is the earliest).

the application be permitted subject to the undermentioned conditions: -

- (i) Approved plans
- (ii) Materials

- (iii) Occupation to be restricted to students only
  - (iv) Landscaping, including details of boundary treatment/security fence, to be carried out in accordance with the approved details.
  - (v) Landscape management plan
  - (vi) Second residential parking survey of streets to be carried out 12 months after agreed prior to first occupation of the development when fully occupied.
  - (vii) Provision of parking, turning areas and pedestrian visibility splays
  - (viii) Replacement of disabled parking spaces that will be lost to accommodate the site access.
  - (ix) Prior approval of the details of the management of the parking area and measures to prevent occupiers having cars.
  - (x) Implementation of Travel Plan
  - (xi) Gymnasium, IT suite, cinema room and any other accommodation for the students use only
  - (xii) Ground floor glazing to rooms to ensure adequate privacy
  - (xiii) Window treatment within the whole building to be in accordance with approved details to ensure consistency of approach
  - (xiv) Provision of the security measures set out in the submission, or other measures that have been agreed.
  - (xv) Construction hours
  - (xvi) Construction Management Plan
  - (xvii) Implementation of measures to reduce the impact of noise as set out in the submitted noise assessment.
  - (xviii) Prior approval of plant and machinery, including a noise assessment and mitigation measures
  - (xix) Submission of an air quality impact assessment and details measures to minimise air pollution before installation of biomass and CHP systems and adherence to approved details for the life of the development.**
  - (xx) Details of ventilation system to ensure appropriate indoor air quality
  - (xxi) Waste storage and collection arrangements
  - (xxii) Importation of soil
  - (xxiii) Removal of permitted development rights for telecommunication apparatus
- (b) Failing completion, by the date referred to above, of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that in the absence of a secured planning obligation the public open space needs of the development, the required contributions to sustainable transport measures and potentially to on street parking measures, would not be met; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.
- (c) In the event of either planning permission being refused (on the ground set out in (b). above) and the development still continuing beyond the date referred to and/or payment of the monies being delayed notwithstanding completion of the obligation, members resolve that it would be expedient to take enforcement action for the reasons set out in recommendation (b) and that Legal Services be authorised to issue enforcement or any other notice 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 payment of the above sums.

10. **APPLICATION FOR MINOR DEVELOPMENT - SLACKEN LANE, ASHGREEN LTD. 13/00266/ CN06, CN07, CN11**

*Proposed by Councillor J Williams and seconded by Councillor S Hambleton*

**Resolved:** That decisions be deferred on all three applications for the following reasons:

**CN06:** To provide the applicant with an opportunity to address the concerns of the LLFA regarding the lack of detailed information demonstrating that surface water soakaways will be acceptable.

**CN07:** To provide the applicant with an opportunity to address the concerns of the LDS.

**CN11:** To provide the applicant with an opportunity to provide detailed proposals that are acceptable with respect to this condition.

11. **APPLICATION FOR MINOR DEVELOPMENT - ST JOHN THE EVANGELIST RC SCHOOL, GLOUCESTER ROAD, KIDSGROVE. SCHOOL GOVERNORS OF ST JOHN'S RC PRIMARY SCHOOL. 16/01032/FUL**

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

- (i) Standard Time limit for commencement of development
- (ii) Approved Plans
- (iii) Materials
- (iv) Land Contamination
- (v) Scheme of Intrusive Site Investigations for Coal Mining
- (vi) A Report of Findings and a Scheme of Remedial Works for Coal Mining

12. **APPLICATION FOR OTHER DEVELOPMENT - KEELE HALL, KEELE UNIVERSITY, KEELE. KEELE HALL. 17/00272/LBC**

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

- (i) Time limit
- (ii) Approved
- (iii) Materials as stated on application form / drawings
- (iv) The precise appearance of the replacement doors to be agreed by the local planning authority before they are installed.

13. **APPLICATION FOR OTHER DEVELOPMENT - LAND TO THE EAST OF THE A34, TALKE ROAD. NEWCASTLE BOROUGH COUNCIL. 17/00311/DEEM3**

**Resolved:** That the Application be permitted subject to the undermentioned conditions:

- (i) Approved plans
- (ii) Tree protection measures
- (iii) Highway method statement to address installation and maintenance of the sign.

**14. APPLICATION FOR OTHER DEVELOPMENT - CORNER OF CHURCH LANE AND SILVERDALE ROAD, SILVERDALE. NEWCASTLE BOROUGH COUNCIL. 17/00312/DEEM3**

**Resolved:** That the application be deferred to provide the applicant with an opportunity to address the discrepancy within the submitted material and to respond to the concerns raised by the Landscape Development Section.

**15. APPLICATION FOR OTHER DEVELOPMENT - LAND AT LOWER STREET, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 17/00315/DEEM3**

**Resolved:** That the application be deferred to allow the applicant the opportunity to comment upon the responses of the Landscape Development Section.

**16. 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.

**17. APPEAL DECISION - LAND OFF LOVERS LANE, HOOK GATE**

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

**18. APPEAL DECISION - TADGEDALE QUARRY**

**Resolved:** That the decision and the officers comments be noted.

**19. DATES OF SITE VISITS FOR 2017/18**

**Resolved:** That the list of dates for site visits be approved.

**20. START TIME OF PLANNING COMMITTEE MEETINGS FOR 2017/18**

**Resolved:** That the commencement time for Planning Committees during the 2017/18 Municipal Year be 7pm with a facility for the Chair to bring the starting time forward to 6.30pm if he considers the likely length of the agenda makes it appropriate to do so.

**21. URGENT BUSINESS**

There was no Urgent Business.



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

Meeting concluded at 7.50 pm

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**ORCHARD HOUSE AND NO. 35 CLAYTON ROAD, NEWCASTLE**  
**BAC O'Connor**

**17/00194/OUT**

The application is a hybrid application for full planning permission for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and outline planning permission for the erection of up to 20 dwellings on the remaining part of the site. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (internal access arrangements, appearance, landscaping, layout and scale) reserved for subsequent approval.

The application site lies within the major urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.80 hectares.

**The 13 week period for the determination of this application expires on the 8<sup>th</sup> June 2017 but the applicant has agreed an extension of time to the statutory determination period to the 25<sup>th</sup> July 2017.**

## **RECOMMENDATIONS**

### **A. Subject**

- (1) The receipt, by the end of the associated publicity period, of no objections to the conversion of No.35 to 4 flats which cannot be addressed by appropriate conditions, and
- (2) to the applicant first entering by 21<sup>st</sup> July 2017 into a planning obligation by agreement securing 25% Affordable Housing onsite and a financial contribution of £2943 (index linked) per dwelling on the site towards the maintenance and improvement of public open space at Lyme Valley Parkway,

**PERMIT** the application subject to conditions relating to the matters including:-

1. Condition to reflect outline nature of part of the application;
2. Time limit for submission of any approval of reserved matters and for commencement
3. Approved plans and documents;
4. No.35 Clayton Road to be converted in accordance with the submitted drawings and such works not to be undertaken except in association with the larger development subject of the outline planning permission;
5. Reserved matters application to include a detailed surface water drainage scheme (SuDS);
6. Finished floor levels set no lower than 112.98m above Ordnance Datum (AOD);
7. Full details of improvements to the existing access;
8. Submission and approval of a Construction Vehicle Management Plan;
9. Submission and approval of a parking strategy, swept path drawings and surfacing materials/ drainage;
10. Reserved matters application to include replacement planting for the loss of tree T2 and any other trees lost;
11. Submission and approval of a detailed Tree Survey;
12. Submission and Approval of Arboricultural Method Statement to BS5837:2012;
13. Tree Protection Plan;
14. Design measures to control internal noise levels;
15. Submission and approval of a Construction Environmental Management Plan;
16. Full Land Contamination measures;
17. Recyclable materials and refuse storage details;
18. Drainage Details – foul and surface water ;
19. Adherence to Recommendations of the ecological report and supplementary reports for certain species; and
20. Reserved matters application to include mitigation measures for protected species

**B.** Should the obligations referred to above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such an obligation the development would fail to secure an acceptable provision of adequately maintained public open space and an appropriate level of affordable housing or, if he considers it appropriate, to extend the time period within which the obligation referred to above can be secured.

### **Reason for Recommendations**

Whilst the development is not located on land that would meet the definition of previously developed land, it is located within a sustainable urban area and there is a strong presumption in favour of sustainable development in the context of the Council's inability to be able to demonstrate a 5 year supply of deliverable housing. The proposed development would need to secure 25% affordable housing and a financial contribution towards public open space to be policy compliant. Furthermore the applicant has demonstrated that up to 20 new build dwellings can be accommodated within the site that would have an acceptable impact on the visual amenity of the area, existing residential properties, ecology, and trees and hedgerows. The new access could serve the proposed 24 units without detriment to highway safety. The proposed development therefore accords with the guidance

and requirements of the National Planning Policy Framework. Details of the conversion of No.35 will have been received prior to the Committee and third parties will still have the opportunity to comment upon that aspect and the Planning Authority needs to consider such comments if received.

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

The applicant has been in discussions with officers of the LPA to address concerns raised by consultees and this has resulted in amended plans of the access arrangements and additional information being submitted. The proposed 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**

1.1 This is a hybrid application for full planning permission for the demolition of Orchard House and the conversion of No.35 Clayton Road into 4 flats and for outline planning permission for a residential development of up to 20 dwellings meaning that there would be 24 dwellings on the site in total. Access from the highway network is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval. Notwithstanding this, an indicative layout has been submitted together with a Planning, Design and Access Statement. The layout plans are for illustrative purposes only and such details would be for consideration at the reserved matters stage if outline permission were granted.

1.2 The application site, of approximately 0.80 hectares in extent, is land that does not meet the definition of previously developed land but is located within the urban area of Newcastle which has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

1.3 Orchard House was previously in use as a drug and alcohol rehabilitation centre until it closed in December 2016.

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

- Is this an appropriate location for residential development?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the proposed development have any material adverse impact upon highway safety?
- Would the impact on trees and ecology be adverse?
- Is a footpath link to adjacent public open space necessary and justified?
- Would the development impinge unduly upon levels of residential amenity of adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves? and
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

**2.0 Is this an appropriate location for residential development?**

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

2.2 Saved Local Plan policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 1,000 dwellings within Newcastle Urban South and East (within which the site lies).

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will

be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 Whilst the site has buildings towards the front the majority of the land is garden and does not meet the NPPF definition of previously developed land. The site is within the urban area in close proximity to Newcastle town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also in close proximity to schools, open space and employment opportunities. Therefore, it is considered that the site provides a highly sustainable location for additional residential development.

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

2.6 The Local Planning Authority is currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a sustainable location.

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

### 3.0 Would the proposed development either have a significant adverse impact on the character and form of the area?

3.1 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.

3.2 Policy CSP1 of the CSS under the heading of 'Design Quality' advises new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape. The Urban Design SPD further expands on this by advising in R14 that "Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them."

3.3 The only matter for approval as part of this application is access. The appearance, layout, scale and landscaping of the development are reserved for subsequent approval. However, an illustrative layout plan has been submitted along with a planning, design and access statement which indicates at paragraph 5.7 that the proposed dwellings would be a maximum of two storeys in height, in order to minimise the visual impact and prominence of the scheme, and to relate well to the local context.

3.4 Orchard House dominates the site frontage but offers limited visual merit within the existing street scene and this is proposed to be demolished to accommodate the proposed scheme. The application site also has a Victorian Lodge building (No.35) on the frontage of the site which has an attractive appearance within the existing street scene and would be retained and converted to 4 flats with 20 residential dwellings proposed on the remaining site. This is to be welcomed.

3.5 The site frontage is dominated by trees, as is the rear of the site which adjoins the Lyme Brook that runs in between the application site and the adjacent Lyme Valley Park public open space.

3.6 The illustrative layout demonstrates that an acceptable scheme can be achieved that would not harm the visual amenity of the area. Furthermore, information has been submitted which shows how a sustainable urban drainage scheme (SuDS) could be accommodated. The County Council's Flood Risk team have raised no objections but have advised a condition which would secure a detailed surface water drainage scheme for the site which should include an acceptable management and maintenance plan for surface water drainage. This information should be submitted as part of the reserved matters application.

3.7 Overall, subject to conditions, it is not considered that the development would have such an adverse impact on the character or quality of the wider visual amenity to justify a refusal.

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

4.1 Access is a matter for approval as part of this application and the proposed development would have a single point of access onto Clayton Road. This would utilise the existing point of access onto Clayton Road but works to significantly modify the access would be required to serve the proposed development.

4.2 The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

4.3 Representations have been received raising concerns about the impact of the development on highway safety, in particular the volume of traffic that would be generated by the proposed development onto a busy road and the proximity of the access to the existing traffic lights on Clayton Road.

4.4 The application is supported by a Transport Statement which indicates that the proposed residential development would generate a net increase of up to 13 two-way movements in the busiest peak hour compared to the existing use of the site. This is not considered to represent a significant off-site impact on the surrounding highway network.

4.5 The Highways Authority has raised no objections subject to conditions which include full details of improvements to the existing access, submission and approval of a Construction Vehicle Management Plan (CVMP) and swept path analysis information, surfacing details and a parking strategy and details.

4.6 The site is in a location that would encourage non-car modes of travel and the site is within easy walking distance of Newcastle town centre. A bus service operates along Clayton Road and the site is also in close proximity to schools, open space and employment opportunities. The proposal therefore complies with the guidance and requirements of the NPPF.

#### 5.0 Would the impact on trees and ecology be adverse?

5.1 NLP Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. N12 also states that where, exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

5.2 The site has a number of trees on the site frontage, both side boundaries and the rear boundary that adjoins the Lyme Brook. In particular the site frontage has two mature trees either side of the existing access. The existing access requires modification and the application has been supported by a tree constraints plan and a tree protection plan in this respect.

5.3 The Council's Landscape Development Section (LDS) expressed concerns about the adverse impact and potential loss of a number of trees on the frontage and side boundaries of the application site. However, following the submission of additional/ amended information they now accept the loss of one of the mature trees (T2) adjacent to and on the left hand side of the access (viewed from the

road), subject to a replacement tree being provided in the vicinity to retain the tree line on Clayton Road.

5.4 T2 is a sizeable lime tree and the application indicates that it is a category 'C' tree – it is of low value. It is not covered by a Tree Preservation Order and whilst it is a visually significant tree it is considered that on balance the tree can be removed subject to a condition which secures a replacement tree. This would be in accordance with policy N12 and enable a safe access to be achieved that would also result in T3 being retained which is a Horse Chestnut and a category B tree. The application also demonstrates that subject to tree protection measures other trees that are worthy of retention can be retained,

5.5 Landscaping is reserved for subsequent approval and would supplement the existing trees to be retained.

5.6 Ecology reports have also been submitted with protected species being identified but the site is classed as a low to moderate ecological value. The reports indicate that mitigation measures can be proposed within the scheme and overall the development is unlikely to result in harm or loss of protected species, subject to a condition which secures appropriate mitigation measures being submitted.

#### 6.0 Is a footpath link to adjacent public open space necessary and justified?

6.1 The application site is adjacent to the Lyme Valley Parkway which is located beyond the rear boundary. However, there is no direct link from the application site to the public open space because the Lyme Brook separates the two and there are also trees and vegetation on the rear boundary of the site.

6.2 The NPPF at paragraph 75 encourages local authorities to seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

6.3 The applicant has indicated that they have explored the possibility of a footpath link across the Lyme Brook but do not believe this to be feasible for a number of reasons, including that a link would need to cross third party land and a footbridge from Tansey Way and Brook Lane is already provided which is within a few hundred metres walk of the site.

6.4 The advice of the Council's Landscape Development Section (LDS) has been sought and they consider that the existing footbridge over the Lyme Brook, approved under 11/00010/FUL, is sufficient because it provides direct access to the play area and a new bridge would not shorten the walk significantly.

6.5 A new footbridge would provide a direct link from the application site to the Lyme Valley Parkway and wider public rights of way but any new footbridge is only likely to benefit the future occupiers of the development, as opposed to providing wider community benefits which are considered to be fulfilled by the existing footbridge. Therefore, on balance your officers are of the opinion that a new footbridge is not justified in this instance. Any new footbridge would not shorten the distance to the Lyme Valley Parkway significantly. It would also not improve access to the town centre on foot significantly with the existing arrangements via Clayton Road being considered appropriate.

6.6 There may be scope for improvements to the existing footbridge and this is being explored with the LDS. An update on this issue will be provided before the committee meeting if this information is received.

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

7.1 The layout for the site is a reserved matter but an illustrative layout has been submitted to support the application.



7.2 The land slopes down from Clayton Road to the Lyme Brook at the rear of the site. Existing properties, including 3 storey town houses and an apartment building, are elevated above the site beyond the southeastern boundary. Two storey dwellings lie to north west.

7.3 The Council's SPG – Space Around Dwellings sets out separation distances between what are termed principal windows of proposed and existing residential properties. A difference in ground levels is also a factor that needs to be considered.

7.4 The illustrative layout broadly appears to comply with the guidance of the SPG but this will need to be considered further when layout and scale are submitted at reserved matters stage.

#### 8.0 What planning obligations are considered necessary, directly related to the development

8.1 Certain obligations are required to make the development acceptable. These are the provision of 25% affordable housing and a contribution of £2,943 (index linked) per dwelling towards public open space.

8.2 The obligations are ones which make the development policy compliant and 'sustainable'. They are considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

8.3 An education contribution has not been requested by Staffordshire County Council in this instance with all catchment schools projected to have sufficient space to accommodate the likely demand from pupils generated by the proposed 24 dwellings.

8.4 It is also necessary to consider whether the financial contribution sought complies with Regulation 123 of the CIL Regulations. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010.

8.5 The Council's Landscape Development Section has requested a contribution towards the enhancement/improvement of Lyme Valley Parkway which is a short walk from the proposed development. There have been no previous planning obligations entered into since April 2010 for a contribution towards this area of Public Open Space and on this basis, it is considered that the proposed financial contribution complies with CIL Regulation 123.

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

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

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

## **Other material considerations include:**

National Planning Policy

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

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

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

Supplementary Planning Guidance/Documents

[Developer contributions SPD](#) (September 2007)

[Affordable Housing SPD](#) (2009)

[Space Around Dwellings SPG](#) (SAD) (July 2004)

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

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

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

Relevant Planning History

The site has been the subject of a number of previous planning applications related to the previous use of the site as a drug and alcohol rehabilitation centre which ceased in 2016. The buildings and site are now vacant. The last planning permission was for three bungalows for people with learning difficulties ref 03/01108/FUL located to the rear of the site with the existing buildings and use of the site remaining unchanged. That permission was not taken up and has lapsed

Views of Consultees

The **Highways Authority** raises no objections subject to conditions for the submission and approval of access improvement works, swept path drawings for servicing and turning areas, a car parking strategy and cycle provision, means of surface water drainage, surfacing materials and a construction vehicle management plan.

The **Education Authority** states that the proposed development falls within the catchments of Friarswood Primary School, Hassell Community Primary School, St. Giles & St. George's C of E Academy and Clayton Hall Business and Language College. The development is scheduled to provide 24 dwellings. Excluding the 3 RSL dwellings from secondary only, a development of 24 houses including 3 RSLs could add 7 Primary School aged pupils, 5 High School aged pupils and 1 Sixth Form aged pupil. All schools are projected to have sufficient space to accommodate the likely demand from pupils generated by the development.

**Staffordshire County Council Flood Risk Team** indicates that the main source of flood risk at this site is associated with Flood Zone 3 from the Lyme Brook Main River so the Environment Agency should be consulted. The site is not within 5m of an Ordinary Watercourse or 20m of a Flooding Hotspot. The updated Flood Map for Surface Water (uFMfSW) shows that the site is not within the 1 in 100 year event zone. These local sources of flood risk to the site are therefore low.

Following the submission of an amended FRA they now raise no objections subject to a condition which secures a detailed surface water drainage scheme for the site which should include a surface water drainage system, SuDS designed to provide adequate water quality treatment, limiting the discharge rate generated by all rainfall events up to the 100 year plus 40%, detailed drainage calculations, plans illustrating flooded areas and flowpaths in the event of exceedance of the drainage system; and provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development.

The **Environment Agency** raises no objections to the application subject to a condition which secures finished floor levels of the dwellings being set no lower than 112.98 m above Ordnance Datum (AOD) to take into account climate change allowances and mitigate flood risk to the proposed properties.

The **Environmental Health Division (EHD)** advised that in the absence of a desk study and site Reconnaissance the application should be refused. However, full contaminated land conditions are advised as well as the submission and approval of suitable design measures to mitigate noise impact on future occupiers of the dwellings and a Construction Environmental Management Plan.

The **Landscape Development Section (LDS)** originally expressed doubts about whether 'no dig' construction could be achieved to retain certain trees in order to accommodate the improvements to the access from Clayton Road, and the two important trees would be compromised.

Additional/ amended tree constraints/ protection information has been submitted and they now raise no objections subject to a suitable replacement tree to compensate for the loss of one of the above trees, in the vicinity to retain the tree line on Clayton Road. The LDS would want to see, in the event of an outline approval, subsequently a detailed tree survey of the trees that are adjacent to the Brook, a tree protection plan and an Arboricultural Method Statement

If the proposals are permitted it is requested by LDS that a contribution by the developer for capital development/improvement of off-site green space of £1,791 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution £2,943 per dwelling. This would be used for the enhancement/improvement of Lyme Valley Parkway.

**Severn Trent Water** raises no objections subject to conditions which secure full drainage plans for the disposal of foul and surface water and implementation of any agreed scheme.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objection principle of residential dwellings at this application site. The Design and Access Statement references crime prevention and security measures, which is encouraging. The regular-shaped site with a single access to it, flanked on either side by existing housing and with the Lyme Brook providing a natural barrier to unauthorised intrusion at the rear has the potential for the creation of a secure development.

The illustrative layout amongst other things, shows outward facing properties, rear gardens generally backing onto other rear gardens, overlooked and in-curtilage parking, and plenty of natural surveillance throughout. Should outline permission be granted, any reserved matters application should build on this strong illustrative layout, clearly explaining within the Design and Access Statement and demonstrating in the site layout how crime prevention and community safety measures have been considered and incorporated in the design proposal.

**Housing Strategy Section** identifies that the applicant has said that they intend to provide affordable housing; 25% of the development will be affordable. However, the tenure mix of that affordable housing has been incorrectly stated as being 50% social rented and 50% shared ownership. Rather the policy is that 60% should be social rented and 40% should be shared ownership; both units to be transferred and managed by a Registered Provider. The types of properties that will be sought as affordable cannot be precisely determined at outline stage but the requirement will be that as soon as this information becomes available, the Council and the Developer will agree the type of properties to be given as affordable and this will be based upon the principle that the affordable housing should be proportionally reflective of the development as a whole. The design and the standard of construction of the affordable housing should as a minimum be the same as the open market dwellings to be constructed on the development. The affordable housing should not be clustered together on the development and should be sufficiently spread across the development.

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

#### Representations

Two letters of representation have been received raising objections on the following grounds;

- The proposed development does not accord with the development plan,
- The development would cause safety issues due to the number of dwellings proposed and the proximity to the existing traffic lights,
- The volume of traffic would be significantly increased onto an already busy and hazardous road,
- Trees and protected species would be adversely affected,
- The dwellings would result in a loss of privacy to neighbouring properties, and
- Substantial noise would be created by new residents,

#### Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Report
- Flood Risk Assessment
- Extended Phase 1 Ecology Report
- Transport Statement
- Coal Mining Risk Assessment
- Landscape Appraisal
- Noise Assessment

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00194/OUT>

#### Background Papers

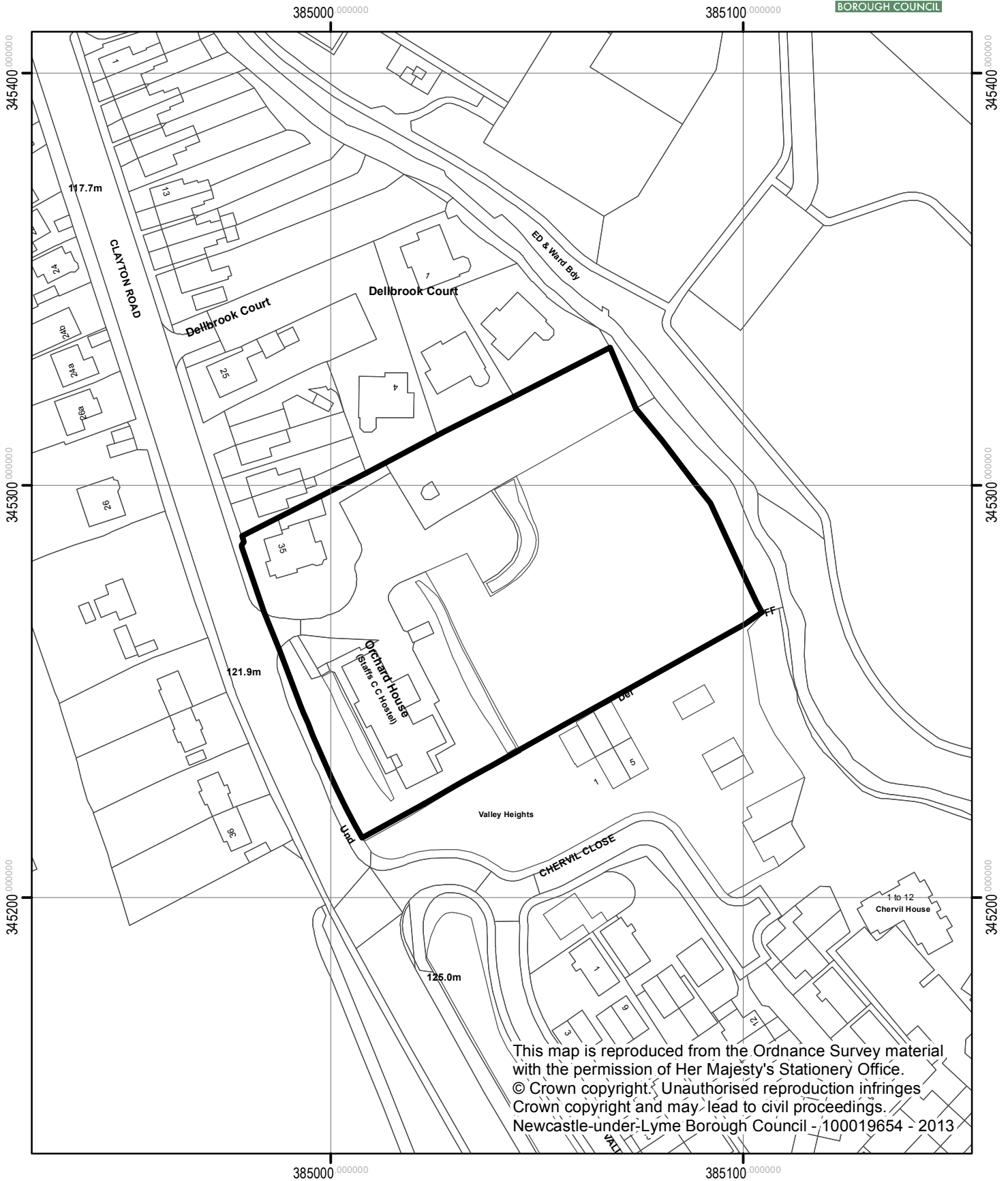
Planning file  
Planning documents referred to

Date report prepared

8th June 2017

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17/00194/OUT  
Orchard House and 35 Clayton Road



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Newcastle-under-Lyme Borough Council - 100019654 - 2013

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**ST JOHN FISHER, CATHOLIC COLLEGE, NEWCASTLE**  
**ST JOHN FISHER COLLEGE**

**17/00156/FUL**

The application is for the demolition of existing mobile classrooms and the construction of new 3 building that is linked to the existing buildings by a glazed canopy. The footprint of the building measures 29 metres by 16 metres with a maximum height of 13 metres.

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

**The 8 week period for the determination date expires on the 5<sup>th</sup> July.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to the following:-**

- 1. Approved drawings.**
- 2. Time Limit.**
- 3. Prior approval of all external facing materials.**
- 4. Prior approval and implementation of an Construction and Environmental Management Plan and a Construction Vehicle Management Plan.**

**Reason for Recommendation**

The proposal will lead to the improvement of existing on site educational facilities where there is a need for replacement of buildings. The scale and appearance of the new building is not considered to be harmful to the character of the area subject to the prior approval of external facing materials. There are no highway safety concerns raised by the proposal as pupil and staff numbers are to remain unchanged.

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

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

**Key Issues**

The application is for the demolition of four existing mobile classrooms which are no longer fit for purpose and the construction of new 3 storey extension to provide teaching room space. The building is to be located near to the western boundary of the school (at the rear of the school) on land which currently contains a small prefabricated building which is to be demolished and is largely hardsurfaced.

It can be seen from the planning history set out below that over a considerable number of years some of the schools classroom space has been provided through temporary classrooms and the provision of purpose built, modern teaching facilities will no doubt enhance provision of education at the school. As such this development is supported in principle.

A small grassed area (approximately 39m<sup>2</sup>) will be lost to accommodate the building, but as the development is not likely to prejudice the use, or lead to the loss of use, of land being used as a playing field no harm would arise and there is no requirement to consult Sport England.

As such it is considered that the key issues in the determination of the application are:-

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

## 2. Are there any significant highway safety concerns?

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

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

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

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

There are four prefabricated mobile classrooms which have been added over the years to increase the amount of teaching space available. But these are now in a poor state of repair and require demolition. Removing the existing mobile classrooms is an opportunity for a visual improvement. The remaining spaces are to be retained as open recreation areas for pupils.

The footprint of the building measures 29 metres by 16 metres. The building is 3 storeys standing at 13 metres in maximum height. The proposed building is predominantly red brick which reflects the predominant material that the existing buildings are constructed from. The proposed building also has a blue rendered stair enclosure which extends slightly above the rest of the building at its maximum height providing a key design feature for this building. The blue theme is continued through the use of blue coloured panels within the windows. Blue brickwork is also incorporated below the cill level on the ground floor.

The appearance, scale and architecture of the building as proposed is appropriate in the context of the school grounds and neighbouring buildings such as Newcastle College. Subject to a planning condition agreeing the precise details of all external facing materials the impact on the character of the area in the context of the opportunities available for enhancement available will be acceptable.

### 5. Are there any significant highway safety concerns?

As no increase in staff or pupil numbers are proposed as a result of the development there are no significant highway safety issues arising from the development.

The Highway Authority has requested that a Construction Vehicle Management Plan be secured to ensure during construction there is no highway safety detriment. Such a condition is considered appropriate and reasonable to impose.

## APPENDIX

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

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

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

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

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

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

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

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

#### Supplementary Planning Guidance/Documents

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

#### Relevant Planning History

93/00395/FUL Erection of temporary classroom – Permitted  
94/00006/TEM Renewal of permission for a temporary classroom - Permitted  
94/00587/FUL Extension - Permitted  
97/00330/FUL Temporary classroom -Permitted  
98/00556/FUL Temporary classroom unit - Permitted  
98/00740/FUL Proposed single storey building to form three science teaching spaces - Permitted  
99/00808/FUL Retention of temporary classroom units - Permitted  
01/00878/FUL Extension and alterations – Permitted  
04/00961/FUL Changing room extension to school - Permitted  
05/00924/FUL Formation of additional car parking – Permitted  
06/00325/FUL Extension to changing rooms - Permitted  
06/00406/FUL Provision of two mobile classrooms –Permitted  
07/00704/FUL New extension to house lift, disabled wc, store and disabled ramp – Permitted  
08/00458/FUL Sixth Form Centre Library extension - Permitted  
09/00056/FUL Hall extension - Permitted  
10/00254/FUL Single storey extension - Permitted  
11/00316/FUL Single storey extension to offices. Demolition of Caretaker's house and revisions to car parking – Permitted

#### Views of Consultees

The **Environmental Health Division** has no objections subject to the written approval and implementation of a Construction and Environmental Management Plan in relation to noise, dust and debris control.

The **Highway Authority** has no objections to the development subject to the written approval and implementation of a Construction Vehicle Management Plan.

The **Landscape Development Section** has no objections.

### Representations

13 letters of representation have been received giving support to the proposal, making the following points:-

- The proposal will modernise existing school facilities and enhance learning.
- There will be a positive impact on the Town.
- Existing pupils are badly let down by existing facilities the current mobile provision is poor and unsightly.

### Applicant's/Agent's submission

The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00156/FUL>

### Background papers

Planning files referred to  
Planning Documents referred to

### Date report prepared

27<sup>th</sup> May 2017.



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**FORMER WOODSHUTTS INN, LOWER ASH ROAD, KIDSGROVE**  
**NOVUS PROPERTY SOLUTIONS LTD (FOR ASPIRE HOUSING)**

**17/00324/FUL**

The Application seeks to remove condition 14 of planning permission 16/00724/FUL for the construction of 22 affordable dwellings. Condition 15 as worded in the decision notice is as follows:

*Prior to the first occupation of the dwellings an odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road has been installed in accordance with full and precise details that have been submitted to and approved in writing by the Local Planning Authority beforehand. The system shall be designed to operate in full accordance with the approved details before any of the dwellings hereby permitted are occupied and shall thereafter be maintained in accordance with the approved details. The kitchen ventilation system shall be regularly maintained to ensure its continued operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.*

The reason given for the condition within the decision notice was “*in the interest of residential amenity.*”

**The 13 week period for this application expires on 23<sup>th</sup> July 2017.**

## **RECOMMENDATION**

**(a) REFUSE the *removal* of condition 14 for the following reason:**

**In the absence of the provision of a suitable odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road odour arising from that premises is highly likely to adversely affect the living conditions of the occupiers of the development. It is therefore considered that if the condition is removed as proposed the residential development is not appropriate for this location, contrary to the aims and objectives of the National Planning Policy Framework;**

**and**

**(b) APPROVE the *variation* of the condition in question so that it now reads:**

**Prior to the first occupation of the dwellings an odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road *shall have been* installed in accordance with full and precise details that have been submitted to and approved in writing by the Local Planning Authority beforehand. The system shall be designed to operate in full accordance with the approved details before any of the dwellings hereby permitted are occupied and shall thereafter be maintained in accordance with the approved details. The kitchen ventilation system shall be regularly maintained to ensure its continued operation and the cooking process shall cease to operate if at any time the extraction equipment ceases to function to the satisfaction of the Local Planning Authority.**

## **Reason for Recommendation**

The removal of the condition as proposed would mean that odours from the adjoining hot food takeaway is highly likely to adversely affect the living conditions of the occupiers of this development as appropriate mitigation of such odours would not be achieved. However it would be appropriate to vary the wording of the first sentence of the condition, purely in the interests of clarity.

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

It is considered that the proposal to remove the condition is unacceptable and does not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of the removal of this condition.

### **Key Issues**

Full planning permission was granted in 2016 for the construction of 22 affordable dwellings, reference 14/00767/FUL. A condition of that permission required the provision of an odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road in accordance with details agreed beforehand and prior to the commencement of the development. The condition was imposed in the interests of residential amenity. That condition was subsequently varied, in response to application reference 16/00326/FUL, so that the requirement to provide the odour abatement system is prior to occupation of any of the dwellings within the development rather than prior to the commencement of the development. That amended requirement was subsequently imposed on a later permission 16/00724/FUL which is the permission the development is proceeding under.

The applicant is now seeking the removal of the condition. The applicant advises that in preparing the requirements of the condition advice and a quotation to install an odour abatement system was obtained which established that high costs are involved in both installing equipment and in its future maintenance. The indication is that such costs are well in excess of what the applicant envisaged and they are mindful of the potential effect of the costs of future maintenance on the tenants of the unit and the future viability of their business. This has caused them to revisit the planning condition, including whether its requirements are justified and a case has been advanced by the applicant seeking to demonstrate that the requirements are not justified.

The applicant is of the opinion that the condition does not meet at least 3 of the tests for planning condition as set out in paragraph 206 of the National Planning Policy Framework (NPPF) as it is not necessary, relevant to the development to be permitted or reasonable in all other respects.

The case presented by the applicant indicates that the committee reports for the original planning application, and the subsequent application to vary the condition requirement for the provision of an odour abatement system, refer to concerns that odours from the fish and chip shop adjoining the site will adversely affect the living conditions of the residents of the new homes. However they say that the source of such concerns is unclear and the absence of such concerns within formal comments on the original planning application is reflective of a lack of justification for the requirements of this condition. In response to this point, it is acknowledged that the formal consultation response from the Environmental Health Division (EHD) on the original application did not identify any concerns however it is the case that they did identify this as an issue in discussion with the planning officer and did, and continue to, endorse the imposition of the condition as evidenced by their objection to the removal of the condition. It could not be concluded that the absence of this concern being raised within EHDs formal comments suggests that there is a lack of justification/necessity for this requirement.

The applicant's case goes on to highlight that there is no record of complaints from local residents regarding odour impact of the hot food takeaway. They consider that this is an important factor that is reflective of the lack of justification for an odour abatement system particularly as there are flats above the hot food takeaway and the parade of flats that it is within and other dwellings including immediately to the north east of the parade of shops, on the opposite side of Lower Ash Road and to the west of the application site. In addition no material adverse odour impact was perceptible when the applicant met with the EHD on site, and the EHD acknowledged that this remained the case when EHD undertook a subsequent site visit. The applicant advises that EHD indicated that they had originally asked for this planning condition as they could foresee a potential odour problem in future, rather than having any evidence of any existing issues. The applicant considers that given that the EHD agreed that there was not an odour issue on their two visits to the site the planning condition is not necessary. It appears to them that the impact on/risk for existing local residents in the immediate vicinity is minimal and that there would be no greater impact on future occupiers of the new dwellings under construction and consequently it is not considered reasonable or necessary to impose the condition



They go on to say that the EHD have confirmed in recent discussions that, should problems associated with odour from the takeaway be encountered in future, there are pollution controls available outside of the planning system that could be used to address them. This, in the applicant's opinion, provides further justification to remove the condition on the grounds that it is not necessary, particularly mindful that the NPPF at paragraph 122 requires LPA's to *"focus on whether the proposed development itself is an acceptable use of the land, and the impact of the use, rather than the control of process or emissions themselves where these are subject to approval under pollution control regime."*

In response it is acknowledged that there are other residential properties in the area and it is of some note that there have not been any recorded complaints about odours arising from the hot food takeaway to date. The dwellings within the permitted development are, however, located closer to the hot food takeaway than existing properties (with the exception of the flats above the parade of shops where the EHD advise, it would not be uncommon for occupiers to not experience odours) and some are directly to the rear where the odours are likely to disperse/ ie more widespread. The absence of complaint to date is not, therefore, a clear indication that odours from the hot food takeaway will not adversely affect the amenity of residents of this development as suggested by the applicant.

In addition whilst it is the case that the NPPF, at paragraph 122, does state that LPA should not focus on the control of processes or emissions themselves where these are subject to approval under pollution control regimes as quoted above the applicant is incorrect in stating that there is a pollution control regime that applies in this case. There is no control regime in respect that hot food takeaways have to operate within with regard to odours, but there are enforcement powers where a statutory odour nuisance is identified. The point at which there is a statutory nuisance and enforcement action can be taken is, however, higher than the point at which residential amenity is adversely affected i.e. odours may unacceptably affect the living conditions of the occupiers of this development but no action could be taken as it is not deemed a statutory nuisance. The EHD advise that where a statutory nuisance is identified the operator of the hot food takeaway can at best seek the employment of Best Practicable Means which does not necessarily equate either to an absence of odour or event and absence of impact on amenity.

Having had regard to the applicant's case it is considered that the condition does meet the tests of conditions and most specifically the requirement to provide a suitable odour abatement system on the adjoining hot food takeaway is necessary as in the absence of such a system the living conditions of the occupiers of the development is likely to be unacceptable. It is concluded that residential development would not be appropriate for this site, and it would have been appropriate to refuse planning permission, without the requirements of this condition. In light of this the application to remove this condition should be refused.

## 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](#)

None relevant

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

None relevant

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

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

[Planning Practice Guidance](#) (March 2014) including guidance on the use of conditions

[DEFRA "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems. \(2005\)](#)

### Relevant Planning History

14/0767/FUL Permit – construction of 22 affordable dwellings on the site of the former Woodshutts Inn. Condition 15 of that permission relating to the requirement to provide odour abatement equipment at the adjoining property was varied under application reference 16/00326/FUL and subsequently condition 24 of that permission relating to the provision of affordable housing was varied under application reference 16/00724/FUL.

### Views of Consultees

**Kidsgrove Town Council** have indicated that they are to investigate further, however as no further comments have been received by the due date it is assumed that they have no comments to make.

The **Environmental Health Division** having visited the site and seen the relationship between the properties and the chip shop and taken into account the guidance within the 2005 DEFRA publication "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems" and the Odour Risk Assessment in annex C, they are of opinion that the condition should stand. The completed risk assessment indicates that a high degree of odour control is required and also advises that chip shops have a high odour and grease loading. The system as currently installed is a very basic system and relies on high velocity discharge and dispersion without any capture or treatment of the odour laden air stream. In such circumstances it would not be uncommon for those within the flats directly over to not experience odours, however as the plume cools it would be brought back down to ground level. The concern is that odours from the fish and chip shop are likely to adversely affect residential amenity and may potentially constitute an actionable statutory nuisance under Part III of the Environmental Protection Act 1990 against the operator of the fish and chip shop. The best that can be hoped for through retrospective control under the EPA 1990 statutory nuisance regime is the employment of Best Practicable Means, this does not necessarily equate either to an absence of odour, or even an absence of impact on amenity.

### Representations

None received.

### Applicant's/Agent's submission

The letter in support of the application has been submitted which is available for inspection at the Guildhall and on the website that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00324/FUL>

Background papers

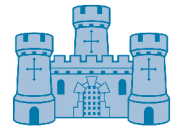
Planning files referred to  
Planning Documents referred to

Date report prepared

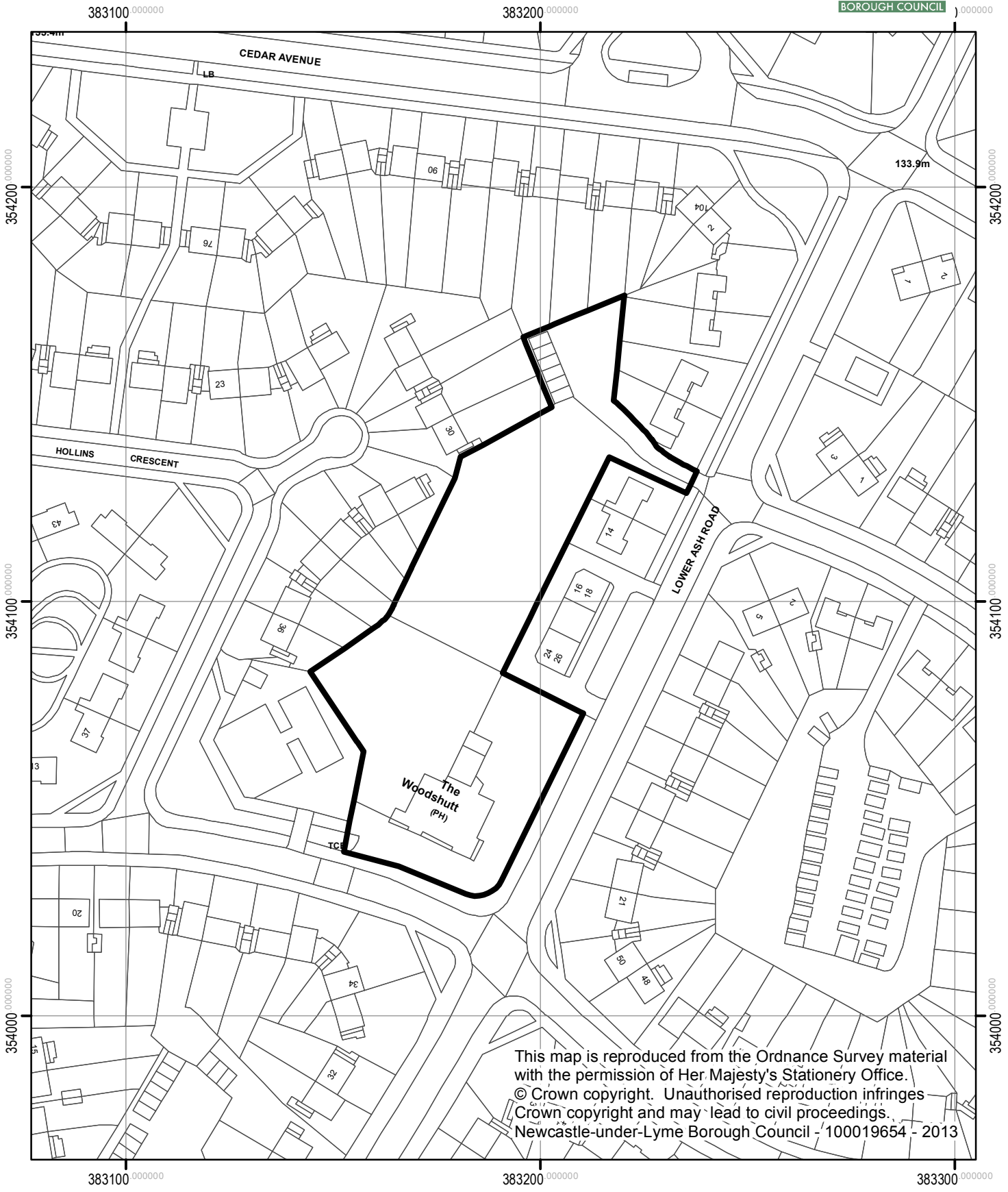
6<sup>th</sup> June 2017

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17/00324/FUL  
Former Woodshuts Inn  
Kidsgrove



NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL



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**FORMER ORME CENTRE, ORME ROAD, NEWCASTLE**  
**GSG ORME CENTRE LIMITED**

**16/00796/OUT**

On 25<sup>th</sup> April 2017 the Planning Committee resolved to grant planning permission for conversion of the former Orme Centre/School into student accommodation involving demolition of a single storey toilet block and outline planning permission for a new building for student accommodation (giving a total of 96 rooms across the site) (16/00796/OUT) subject to the applicant entering into a Section 106 obligation by agreement to secure a review mechanism of the scheme's ability to make policy compliant contributions to public open space, travel plan monitoring and on street parking controls, if the development is not substantially commenced within 12 months from the date of the planning permission, and the payment of such contributions if found financially viable.

Agents acting for the developer have asked that the 12 month period for substantial commencement be extended.

**RECOMMENDATION**

That the Committee agree that:

- 1) the date by which substantial commencement must be achieved be within **18 months** from the date of the planning permission, failing which a financial reappraisal will be required (should the development referred to in planning application 16/00796/OUT be proceeded with) in order to establish whether the development should make policy compliant contributions
- 2) the date by which the agreement must be completed (for planning permission to be granted) now be 14<sup>th</sup> July 2017

**Reason for Recommendation**

It is considered appropriate to allow some limited additional time having regard to the particular circumstances of this case, the desirability of encouraging the delivery of this project involving the retention and long term use of a Listed building, and the giving of sufficient, but not excessive, confidence to the developer as to their window of opportunity to proceed with the scheme on a "no-contributions" basis.

**KEY ISSUES**

On 25<sup>th</sup> April 2017 the Planning Committee resolved to grant planning permission for conversion of the former Orme Centre/School into student accommodation involving demolition of a single storey toilet block and outline planning permission for a new building for student accommodation (giving a total of 96 rooms across the site) (16/00796/OUT) subject to the applicant first entering into a Section 106 obligation by agreement to secure a review mechanism of the scheme's ability to make policy compliant contributions to public open space, travel plan monitoring and on street parking controls, if the development is not substantially commenced within 12 months from the date of the planning permission, and the payment of such contributions if found financially viable.

Agents acting for the developer have asked that that the 12 month period for substantial commencement be extended to 18 months. Following discussions with their Quantity Surveyor, they have provided details of the likely timescales for a programme of achieving substantial commencement. The anticipated programme is as follows:

- 6 months to prepare tender documents, which would run alongside the discharge of planning conditions
- 3 months for tender, tender evaluation, value engineering and awarding contract
- 3 months for demolition and mobilisation
- 3 months for sewer diversion and disconnecting statutory services
- 3 months for groundworks up to damp proof course level

They state that the above programme would be tight but achievable and they do not believe that it can be compressed any further.

The purpose of setting a period of time after which a reappraisal is required – if a substantial commencement of the development is not made - is that financial circumstances can change significantly over time and account accordingly then needs to be taken of those changed circumstances.

The District Valuer did not carry out an appraisal of this particular development; it was carried out by another independent valuer and it was undertaken in April 2017. However, in relation to other schemes, the District Valuer has advised that financial assessment should be reviewed if the development had not been substantially commenced within 12 months of being granted, or if the development was to be constructed in phases.

This is a particularly challenging development. It is not a greenfield or cleared site, rather it is a site that requires demolition (of one of the buildings on the site) and both conversion (of a Listed building) and new build works. In this case the proposal is that “substantial commencement”, to reflect the nature of the project, be defined as the completion of the structural work involved in the conversion, completion to damp proof course level of the new build element, and the construction to base course level of the access and parking areas. That is considered to be an appropriate measure of a substantial commitment to the development, by which point a developer would be unlikely to cease the development, because of the scale of financial commitment required to get to that stage. Clearly something significantly more than a token start is required to make the potential requirement of reappraisal failing such substantial commencement meaningful.

The District Valuer’s consistent advice has been that 12 months is an appropriate period. Financial circumstances can change significantly over time, with a major impact on viability, and the idea behind the setting of a period is to enable new circumstances to be potentially taken into account but still to provide a window within which a development can proceed on the basis of known and certain contributions. The Council has accepted that the scheme at present cannot afford any of the policy compliant contributions that it would normally require.

If the Council were to set an unachievable period then it runs the risk that such is the degree of likelihood that a reappraisal will be required, and even though there may be confidence that a reappraisal will again demonstrate a lack of viability, the result is that the inclusion of such a requirement may itself, it is said, impede the prospects of the development proceeding. Members will note that the agents consider that an 18 month lead in time to get to dpc level whilst tight would be achievable, although they point out that this does not allow any additional time for the raising of finance and the sorting out of “legals”, and they emphasise that they don’t believe the 18 month period can be compressed any further as the stages they have outlined above would need to run sequentially for practical reasons. Your officers are not in a position to dispute such assertions.

A further material consideration in this case is that the appraisal upon which the Committee based its decision (to permit the development without the policy compliant contributions) was itself very recent, dating from April.

Taking all of the above points into consideration, on balance, an 18 month period may be appropriate in this case.

Due to ongoing discussions regarding this matter, completion of the Section 106 by the 6<sup>th</sup> June has not been achieved. However, Solicitors have been instructed and a draft obligation has been produced and a new end date of 14<sup>th</sup> July is considered reasonable, failing which your officer would have authority to refuse the application unless he considered it appropriate to extend the period. Because the effect of delaying completion would in practise lengthen the period between the appraisal that was done and any that might be required in the future it has been explained to the agent that there is little or no room for compromise on this date should the Committee agree to the 18 month period.



## **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 CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011  
Policy IM1: Provision of Essential supporting Infrastructure

### **Other Material Considerations**

National Planning Policy

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

Community Infrastructure Levy Regulations 2010, as amended

Supplementary Planning Guidance/Documents  
Developer Contributions Supplementary Planning Document (SPD) (September 2007)

RICS Guidance Note 'Financial Viability in Planning' 1<sup>st</sup> Edition

HCA Good Practice Note Investment and Planning Obligations – responding to the downturn

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/16/00796/OUT>

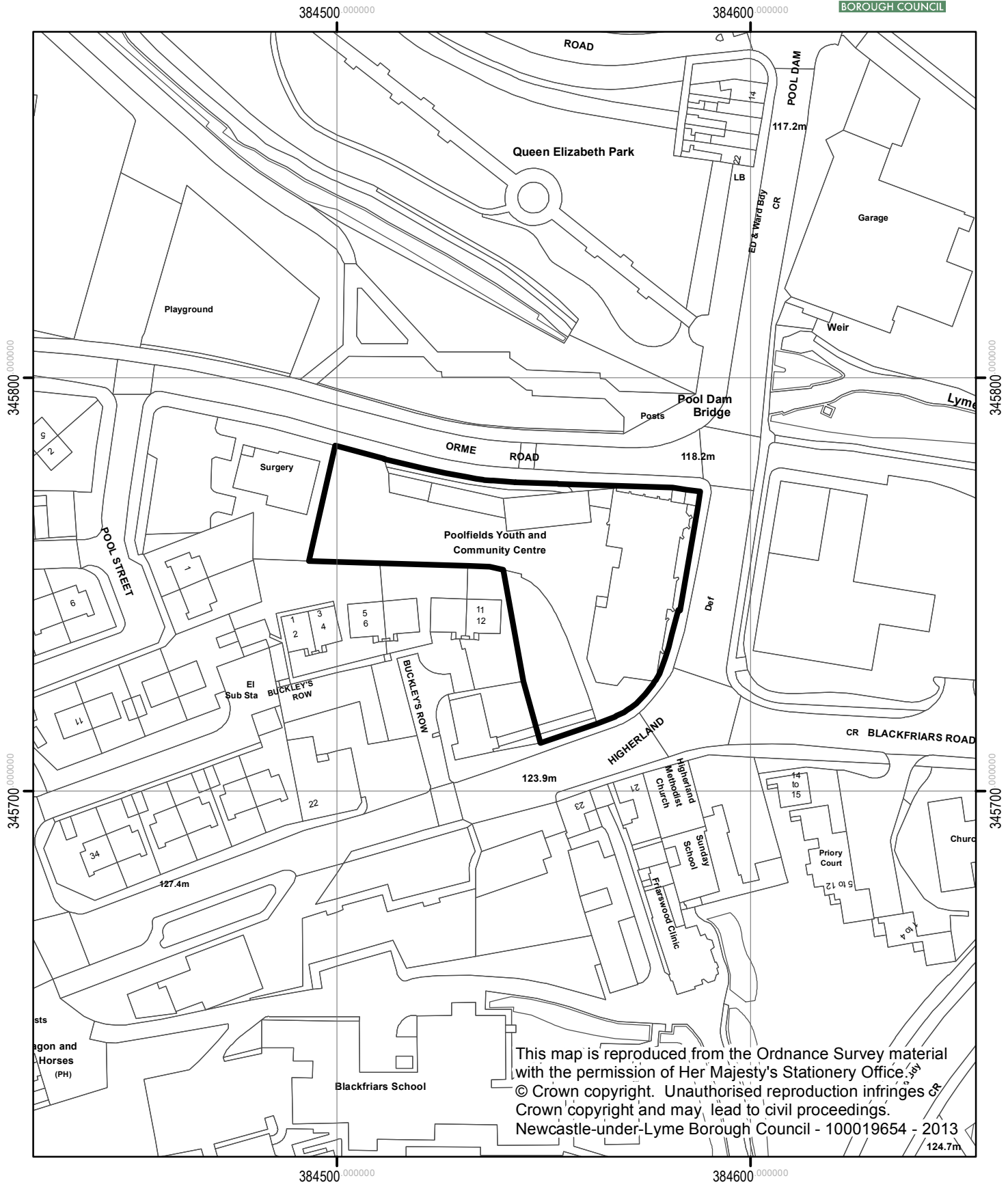
### Background Papers

Planning files referred to  
Planning Documents referred to

### Date report prepared

9<sup>th</sup> June 2017

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**ST. PETERS CHURCH, MAER, NEWCASTLE**  
**MR ANDREW MAINWARING**

**17/00219/FUL**

The application seeks full planning permission for the installation of a new heating system and alterations and improvements to the redundant boiler house attached to the main church building to provide toilet facilities. The alterations proposed include raising the floor level and providing a new doorway to provide access for persons with disability. The submitted plans also detail provision of sewage treatment plant in a redundant fuel store and underground soakaway in the adjacent churchyard.

St Peters Church is a Grade II\* listed building. The site lies within the Maer Conservation Area boundary and a Landscape Maintenance Area as defined on the Local Development Framework Proposals Map.

**The statutory 8 week determination period for the application expired on the 31<sup>st</sup> May 2017; however an extension to the determination period has been agreed until the 23<sup>rd</sup> June 2017.**

## **RECOMMENDATION**

**PERMIT subject to conditions relating to the following:-**

- 1. Time limit.**
- 2. Approved drawings.**
- 3. Materials.**
- 4. Excavations shall be hand dug.**
- 5. Archaeological watching brief be undertaken following written consent.**

## **Reason for Recommendation**

The proposed changes and alterations are respectful to the historic setting and fabric of the Church and would not adversely affect views of it. The high amenity value trees opposite the development can be retained and protected.

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

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

## **Key Issues**

The application seeks full planning permission for the installation of a new heating system and alterations and improvements to the redundant boiler house attached to the main church building to provide toilet facilities. The new oil tank proposed measures 2.8metres by 1.5metres in footprint by 1.6 metres in height.

The alterations proposed for the conversion of the existing boiler house includes raising the floor and providing new doorway to provide access for persons with disability; the provision of new sewage treatment plant and underground soakaway in adjacent churchyard.

St Peters Church is a grade II\* listed building. There are high amenity value trees close to where the building works are proposed. The key issues therefore to consider are:-

1. Is the design of the development, including the impact on the special character of the nearby grade II\* Listed Church, Maer Conservation Area, and on the landscape as a whole, acceptable?
2. Is the impact on existing trees acceptable?

1. Is the design of the development, including the impact on the special character of the nearby grade II\* Listed Church, Maer Conservation Area, and on the landscape as a whole, acceptable?

The National Planning Policy Framework (NPPF) at paragraph 131 states that in determining planning applications, the local planning authority should take account of:-

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

At paragraph 132 the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset (such as a Conservation Area or Listed Building), great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. 'Significance' can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

In paragraph 133 it is indicated that where a proposed development would lead to 'substantial harm' or total loss of significance of a *designated* heritage, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply

- The nature of the heritage asset prevents all reasonable uses of the site
- No viable use of heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and
- The harm or loss is outweighed by the benefit of bringing the site back into use

Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

At paragraph 135 it indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The NPPF goes on to state, at paragraph 135, that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

CSS Policy CPS2 seeks to preserve and enhance the historic character and appearance of the Borough. Saved Local Plan policy B5 states that the Council will resist proposals that would adversely affect the setting of a Listed Building. Saved Local Plan Policies B9, B10, B12, B13 and B14 all seek to protect the special character and appearance of Conservation Areas.

The works are located at the rear of the Church. The new oil tank proposed is to be bunded and secluded from view. The new sewage tank will be underground adjacent to the existing boiler house which will be converted to a toilet. As part of the works an existing historic headstone is to be carefully removed and replaced in its original position adjacent to the revised doorway entrance to the proposed toilet. The building works proposed are very well considered and have already been subject to Lichfield Diocesan Advisory Committee approval in principle. The proposal does not harm the fabric of the Church or its appearance within the Maer Village Conservation Area. The impact to important surrounding trees which are part of the setting of the area is now considered.

## 2. Is the impact on existing trees acceptable?

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

The development proposal includes a considerable amount of engineering works to install the new boiler, septic tank and soakaway with associated underground pipework. There is an ancient yew tree adjacent to a proposed soakaway. The tree has high visual amenity and is an important tree. An existing holly tree on the neighbouring property is also potentially affected by the proposal which is also of high amenity value. During the course of the application additional information has been received and it is now considered that the applicant has fully resolved any concerns relating to harm to these important trees. The proposal includes the use of hand digging throughout to ensure there is no root damage and exploratory digging has confirmed there will be no harm to the root systems of trees. Accordingly the Landscape Development Section indicates that there is no objection to the proposal proceeding as proposed.

## **APPENDIX**

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

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

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

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

Policy B4: Demolition of Listed Buildings  
Policy B5: Control of Development Affecting the Setting of a Listed Building  
Policy B8: Other Buildings of Historic or Architectural Interest  
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  
Policy B15: Trees and Landscape in Conservation Areas  
Policy N17: Landscape Character – General Considerations  
Policy N19: Landscape Maintenance Areas  
Policy N12: Development and the Protection of Trees

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

#### [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)

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

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

#### [Supplementary Planning Guidance/Documents](#)

#### [Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

#### [Relevant Planning History](#)

None relevant.

#### [Views of Consultees](#)

**Historic England** indicates that they are aware of the proposals through their membership of the Lichfield Diocesan Advisory Committee (DAC). The proposals were brought before the DAC in September 2016, at which time it indicated that it had no objection in principle. Historic England is therefore happy in this instance to defer to the expertise of the Council's specialist conservation adviser with regard to the details of the scheme.

The Council's **Conservation Officer** has no objections to the proposal but would refer to the Conservation Area Working Party's comments regarding the potential for water to pool around the front of the new toilet door. And that an archaeological watching brief is undertaken given the location of the works, if the County Archaeologist thinks that it is necessary.

The **Conservation Area Working Party** wants to ensure that there is an archaeological brief during the works and that consideration has been given to keeping water away from the door threshold of the new toilet.



**County Council Archaeologist** recommends the inclusion of a condition to secure a written scheme of archaeological investigation.

**Environmental Health Division** has no objections.

The Council's **Landscape Development Section** had initial concerns in relation to tree protection for trees of high importance and amenity value (an ancient yew tree and a holly tree on the neighbouring property) but taking into account information provided by the applicant including exploratory site excavations they no longer have any objections to the development proceeding as proposed.

**Maer and Aston Parish Council** and **Staffordshire Gardens and Parks Trust** did not respond by the due date of the 2nd May so it is assumed they have no comments to make on the proposal.

Representations

None received.

Applicant's/Agent's submission

The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00219/FUL>

Background papers

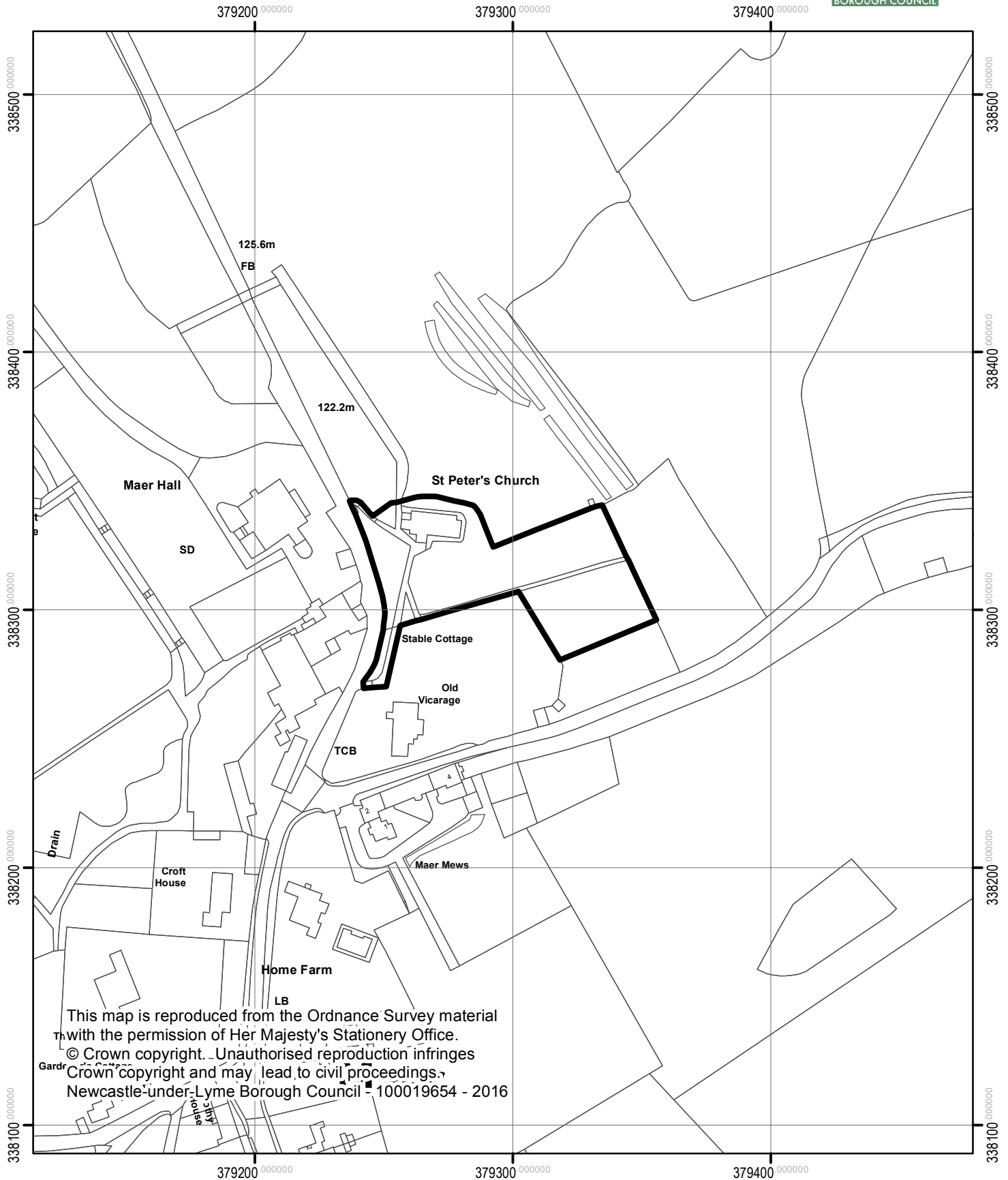
Planning files referred to.  
Planning Documents referred to.

Date report prepared

26<sup>th</sup> May 2017.

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**17/00219/FUL**



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**AUDLEY COMMUNITY CENTRE, NANTWICH ROAD, AUDLEY**  
**MRS DOBSON**

**17/00260/FUL**

The application is for full planning permission for a new storage container at Audley Community Centre.

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

**The 8 week period for the determination of this application expired on 17<sup>th</sup> May 2017.**

**RECOMMENDATION**

**Permit, subject to conditions relating to the following: -**

- 1. Standard Time limit for commencement of development**
- 2. Approved plans**

**Reason for Recommendation**

Although the proposed development is inappropriate in Green Belt and would have some impact upon the character and appearance of the landscape, such impact would be small scale and limited to a relatively small area. No demonstrable substantiated harm to other interests exists in this case. Weighing the harm of the proposal arising by definition from inappropriate development against the very small scale of the container in terms of its height and capacity and the benefits arising for this community facility in providing storage, it is considered that the very special circumstances exist to justify the proposal. The proposed development would accord with the overarching aims and objectives of both local and national policy in this regard.

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

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

**Key Issues**

This is an application for full planning permission for a new storage container at Audley Community Centre, which is located within the Green Belt and an Area of Landscape Restoration as indicated by the proposals map.

The storage container would be sited to the side of the Centre, adjacent to an existing storage unit.

The proposed storage container would be sited approximately 30 metres outside of the Conservation Area boundary. Given this distance, coupled with the fact that the storage container would be sited adjacent to existing storage containers, and separated from the Conservation Area by the community centre car park, it is considered that the storage container would have no impact upon the character and appearance of the adjacent Audley Conservation Area.

The main issues to be considered with this proposal are:

- Is the proposal appropriate or inappropriate development in the Green Belt and if inappropriate, do the required very special circumstances exist to justify approval?
- Would there be any adverse impact on the character and appearance of the area of the surrounding landscape?

Is the proposal appropriate in the Green Belt?

Policy S3 of the Local Plan presumes against any form of development with certain exceptions. The proposals sought do not fall within any of the categories outlined.

The National Planning Policy Framework states that new buildings within the Green Belt are not appropriate, unless for one of the exempted development types specified in the framework. The new storage container does not fall within any of the categories that are identified as appropriate, therefore the development is considered to be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Consideration will be given to whether there are very special circumstances that justify approval of the development, below.

Would there be any adverse impact on the character and appearance of the area of the surrounding landscape?

The NPPF states that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design go beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

The site is within an Area of Landscape Enhancement. In these areas, the Council will support, subject to other plan policies, proposals that will enhance the character and quality of the landscape.

The new storage container would be single storey in height and would be of steel construction and painted green to match the existing unit. The unit would be sited to the side of the community centre adjacent to the existing unit and as a result, it would not be widely visible from the landscape beyond the community centre. It is considered therefore that the impact of the development on the character of the landscape would be minimal even when taken the existing storage containers are taken into consideration.

Do the very special circumstances exist to outweigh any harm to the openness of the Green Belt?

Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

A case for very special circumstances has provided by the applicant. Their submission states that the storage space is required for fund raising activities of the Community Centre, which the Centre relies upon to remain active. The storage unit would be used to store goods donated by the public, and then offered for sale at various fund raising activities organised by the Centre. The funds raised play a vital part in maintaining the activities provided by the Community Centre, providing a valuable service to the local community.

The unit is relatively small and it would be sited behind two existing containers so would not be fully visible from most vantage points. It is considered that, because of the level of inconspicuousness and size, the storage container would have a limited impact upon the wider landscape and Green Belt area.

Weighing the harm of the proposal arising by definition from inappropriate development against the very small scale of the container in terms of its height and capacity and the benefits arising for this community facility in providing storage, it is considered that the very special circumstances exist to justify the proposal.

## **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 ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP2: Historic Environment  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets

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

Policy N17: Landscape Character - General Considerations  
Policy N20: Area of Landscape Enhancement  
Policy S3: Development in the Green Belt  
Policy T16: Development – General Parking Requirements

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

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

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

[Supplementary Planning Guidance/Documents](#)

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

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

### **Relevant Planning History**

09/00713/FUL	Proposed repositioning of existing storage unit & new storage unit	Approved
12/00203/FUL	New metal storage container	Approved
15/01022/FUL	Retention of existing storage unit and proposed new storage unit	Approved

### **Views of Consultees**

The **Environmental Health Division** makes no comment.

**Audley Parish Council** has no objections.

The **Conservation Officer** has no objections.

### **Representations**

None received

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

The application forms and plans have been submitted. These documents are available for inspection at the Guildhall and searching under the application reference number 17/00260/FUL on the website page that can be accessed by following this link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00260/FUL>

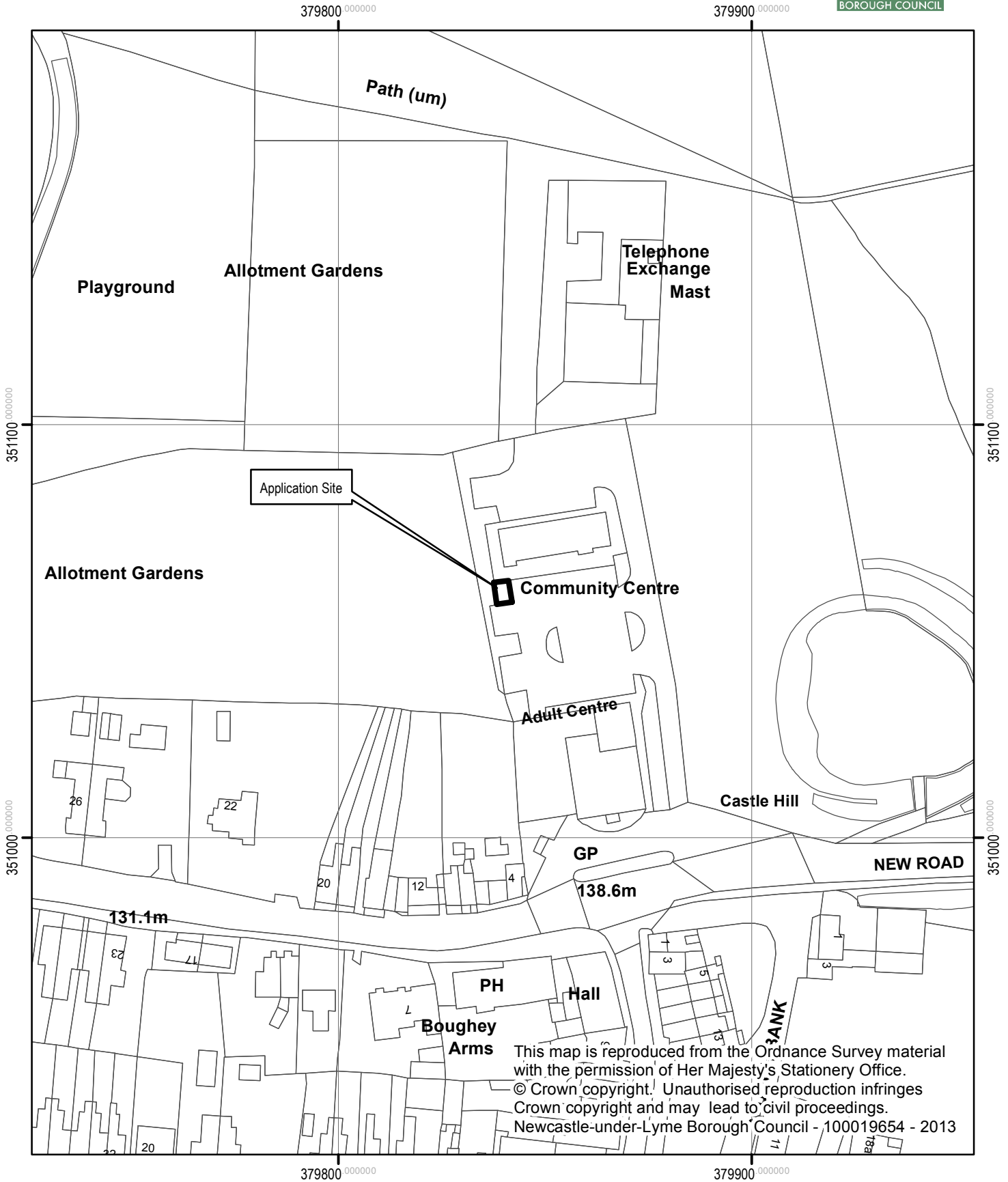
**Background papers**

Planning files referred to  
Planning Documents referred to

**Date report prepared**

24<sup>th</sup> May 2017





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 Newcastle-under-Lyme Borough Council - 100019654 - 2013

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**LAND OFF SLACKEN LANE**  
**ASHGREEN LIMITED**

**13/00266/CN06, CN07, & CN11**

The applications relate to approval of details required by conditions of planning permission reference 13/00266/FUL for the erection of 6 bungalows and the formation of new accesses which was granted planning permission on appeal. The applications are as follows:

**13/00266/CN06** concerns condition No.6 which is worded as follows:

*Development shall not begin until foul and surface drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority. The submission to be approved shall include details of how this would be maintained in the future.*

**13/00266/CN07** concerns condition No.7 which is worded as follows:

*Development shall not begin until proposals to widen the south-east section of Slacken Lane to 6m and to make up the section between Congleton Road through to the site access have been submitted to and approved in writing by the local planning authority. This should include a programme for the works and, thereafter, the agreed scheme shall be implemented accordingly.*

**13/00266/CN11** concerns condition No.11 which is worded as follows:

*No development shall take place until details of the arrangements for recycling materials and refuse storage including, designated areas to accommodate sufficient recyclable materials and refuse receptacles to service the development and details of collection arrangements have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the designated areas for recyclable materials and refuse receptacles have been provided for the dwellings.*

The site lies within the urban area as defined on the Local Development Framework Proposals Map.

**The eight week statutory determination period expires on 22<sup>nd</sup> June for applications 13/00266/CN06 and 13/00266/CN11 and on 30<sup>th</sup> June for application 13/00266/CN07. These applications were brought to the Planning Committee at its meeting on the 23<sup>rd</sup> May and the resolution of the Committee was to defer a decision in each case**

**RECOMMENDATIONS**

- (a) Subject to the Lead Local Flood Authority being satisfied that the proposed soakaways are acceptable, approve the drainage details provided with application 13/00266/CN06 (including any additional acceptable details that are required but not yet received) as acceptable and satisfying the requirements of condition 6 of planning permission 13/00266/FUL.
- (b) Approve the proposed Slacken Lane widening and resurfacing details provided with application 13/00266/CN07 (including the provision of a new hawthorn hedge adjoining the widened Slacken Lane) as acceptable and satisfying the requirements of condition 7 of planning permission 13/00266/FUL.
- (c) Approve the waste and recycling details provided with application 13/00266/CN11 (including the on-site turning head) as acceptable and satisfying the requirements of condition 11 of planning permission 13/00266/FUL.

### **Reason for Recommendation**

The information provided in response to conditions 7 and 11 are acceptable and satisfy the requirements of such conditions. To date sufficient and appropriate details/information has not been provided that satisfies the requirements of the condition 6. Further information is being sought and the comments of the relevant consultee are awaited.

### **KEY ISSUES**

When granting planning permission for five bungalows, reference 13/00623/FUL, the Planning Committee resolved that the details required by conditions relating to foul and surface water; the widening and improvement of Slacken Lane; and the details of arrangements for recycling materials and refuse storage be brought to the Committee for approval. Whilst the condition applications that are the subject of this report do not relate to application 13/00623/FUL but to application 13/00266/FUL (for six bungalows granted on appeal following refusal) given the decision of Committee on the later development, and the interest that was thereby expressed on such matters, the relevant "conditions applications" are brought to the Committee for decision.

Please note that it is not the case, as expressed in the representation received, that a decision cannot be reached as to whether the details provided in respect of the conditions are satisfactory until any right in civil law to use Slacken Lane has been established. It is not for the Local Planning Authority to confirm whether or not there are such rights and there is no requirement that a declaration is provided from the applicant to that affect.

Looking at each condition application in turn:

#### **13/00266/CN06**

As indicated above this application relates to details required by condition 6 of planning permission 13/00266/FUL requiring the approval and implementation of foul and surface drainage works as required, including details of the maintenance of such drainage works in the future. The information as submitted in the first instance is a plan that shows that the surface water will be drained to three soakaways shown within the site close to the northern boundary. In addition the indication is that the foul drainage will be addressed by a connection to the existing foul sewer in Slacken Lane close to the end of Pickwick Place.

United Utilities have been consulted and have now approved connection of the development to public sewer.

During the course of this application the applicant has provided additional information in response to the comments of the Lead Local Flood Authority (LLFA) however their latest response is that more investigation are required to show that soakaways are acceptable. Upon receipt of additional information the further comments of the LLFA will be sought and hopefully will be received in time for your Officer to make a clear recommendation on this application.

As previously advised, In response to the comments within the representation, it is confirmed that alterations to the junction of Slacken Lane with Congleton Road, including any drainage features at that junction, that were approved under application reference 13/00623/FUL do not form part of the planning permission to which the conditions within this report relate and the developer is not required to carry out such junction improvements as he is not intending to, and indeed is unable to, implement that other planning permission.

#### **13/00266/CN07**

As indicated above this application relates to details required by condition 7 of planning permission 13/00266/FUL requiring the approval and implementation of the widening and making up of Slacken Lane to 6 metres in width. The information as submitted in the first instance is photographs which are said to demonstrate that they have already started surfacing the narrow section of Slacken Lane using a compacted hard-core base finished with recycled tarmac topping to match the remainder of

the unadopted highway. The portion of Slacken Lane that is to be widened to 6m will be done in the same manner.

More recently an amended plan has been received indicating that a hawthorn hedge is to be planted adjoining part of the section of Slacken Lane that is to be widened to soften the visual appearance of this widening. Information regarding tree protection measures has also been provided.

Whilst not required by the condition, information has also been provided regarding the maintenance of Slacken Lane indicating that the developer will ensure that the construction of the road will be robust enough to take delivery vehicles without 'rutting'. Regular pot-hole filling exercises for the whole length of Slacken Lane will be undertaken regularly to keep whole lane in good condition. At the end of the development a final check will be conducted and any pot-holes/ruts will be repaired.

The Highway Authority has confirmed that the information submitted by the developer regarding the highway improvements of Slacken Lane as required by condition 7 of the planning permission 13/00266/FUL (and contained in application 13/00266/CN07) is acceptable.

The further views of the Landscape Development Section are still awaited however as it is understood that the revised plans have been agreed by the applicant with a representative of the LDS on site it is anticipated that they will confirm their approval of the details. The requirement to achieve 6 m width is part of the planning permission granted on appeal.

As previously advised concern has been expressed in the representation received that the Lane cannot take the vehicular movements associated with the development construction. In addition it has been indicated that the public footpath is being obstructed by the site gate which is left open. Such issues are not material to the determination of this or any of these condition approval applications.

#### **13/00266/CN11**

As indicated above this application relates to details required by condition 11 of planning permission 13/00266/FUL requiring the approval and implementation arrangements for recycling materials and refuse storage including, designated areas on collection day. An amended plan has now been received indicating a turning head where a refuse vehicle can turn on site to enable refuse and recyclable materials to be collected from the frontages of individual properties within the site. Whilst a response from the Waste Management Section has not yet been received in writing they have orally indicated that they are happy with such arrangements. This will enable refuse vehicles to both access and exit Slacken Lane in a forward gear which is currently not possible as there is no suitable turning area. It will avoid the need for refuse and recyclable materials receptacles from the new properties being stored at the junction of Slacken Lane and Congleton Road on collection day. These factors will be beneficial to the occupiers of the proposed development and existing Slacken Lane residents.

As previously advised please note that the condition as worded by the Planning Inspector specifies that the details of the arrangements for recycling materials and refuse storage are to be agreed before any development takes place and that designated area for recyclable materials and refuse receptacles has been provided before any dwelling is occupied. Unless the comments within the representations have been misunderstood, the concerns expressed in them that a decision on such arrangements will be left until occupation is incorrect.

## **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](#)

None relevant

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

None relevant

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

#### Relevant Planning History

Application 13/00266/FUL for the erection of 6 bungalows was refused and subsequently allowed on application. Application 13/00623/FUL for 5 bungalows was permitted.

#### Views of Consultees

The latest response of **Lead Local Flood Authority** commenting on **13/00266/CN06** is that they cannot at present recommend approval of the details submitted to satisfy condition 6 as more investigation is required to show that soakaways are acceptable. While the information in the Strategic Drainage Report (Keytech Development Design Ltd, October 2015) suggests specific soil infiltration rates are acceptable, the associated graphs and results do not show a discharge from full to half-volume within 24 hours in readiness for subsequent storm flows as detailed in BRE Digest 365.

**United Utilities** commenting on 13/00266/CN06 confirm that the drainage strategy is in line with United Utilities requirements and consider that the condition can be approved.

The **Highway Authority** commenting on **13/00266/CN07** has no objections. The **Landscape Development Section** has not commented on the latest plans received in respect of this application and any comments received will be reported. They have previously expressed some concern about the proposal to widen the access to 6 m given that this would result in the loss of existing verges and may have an impact on adjacent ornamental trees and hedgerows, and on trees that overhang (the access) from a neighbour's property. Furthermore they point out that the position of the 6 m (wide) route is not made clear on the submitted information. For the above reasons they had sought additional information including a tree survey, an arboricultural implications assessment and a plan showing retained trees and their Root Protection Areas.

The **Waste Management Section** commenting on **13/00266/CN11** originally advised that the information provided to satisfy this condition relates to waste generated during construction and as such does not provide the information that is required by the condition. They report that concerns were raised during the initial application about regular collections of refuse, recycling and garden waste from the properties once they are occupied. They have been in discussions directly with the applicant since they made these comments

#### Representations

A representation on behalf of the Slacken Lane residents (in 5 parts) has been received raising the following concerns:

- Following the granting of planning permission for 5 bungalows on the land (13/00623/FUL) the Planning Committee resolved that conditions relating to a refuse collection point, disposal of foul and surface water, safeguarding of the public footpath and the Lane surface should be brought before them for approval following the establishment of any right in civil law claimed by the developer to do so. The approval included plans to meet the suggestions of the Highway Authority. It was shocking to discover that the alterations to the junction layout, set

to include additional drainage to cope with the excess surface run off from Congleton Road would no longer feature in such plans.

- The lives of residents of Slacken Lane have been blighted by the arrival of the developers on site since 24<sup>th</sup> April due to speeding vehicles, movements of large loads, blockage of driveways and inappropriate parking. The unadopted surface of the Lane is not equal to this task and the residents are not prepared to countenance its destruction.
- Gates to the entrance to the development site are routinely opened, extending across the width of the public footpath thereby blocking it.
- The position of the collection point for the waste and recyclable materials should not be left until first occupancy. Given the Council's current position regarding the collection of bins from unadopted and private roads, this could potentially mean that the existing 8 dwellings in Slacken Lane would have to leave bins and boxes for collection every week on the footpath to Congleton Road which will not be visually acceptable. Bearing in mind that the last 300ft to the development site is only 6 foot wide and neither the land nor Slacken Lane is owned by the developer, it begs the question as to how this is to be achieved. It is not a decision to be left until later.
- There are concerns about the proposed accessing of the United Utilities sewer. Originally the access point was to be to the rear of the site, but now that has been denied the access point now proposed is to the rear of Pickwick Place. This suggests that they plan to go beneath the culverted stream which runs along Slacken Lane and would leave the Lane at risk of flooding. This proposal has not been subject to the same scrutiny of the Flood Risk Officer which is imperative as the Lane already suffers from flooding following heavy rainfall.

#### Applicant/agent's submission

The application details as submitted are available to view at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/13/00266/CN06>  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/13/00266/CN07>  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/13/00266/CN11>

#### Background Papers

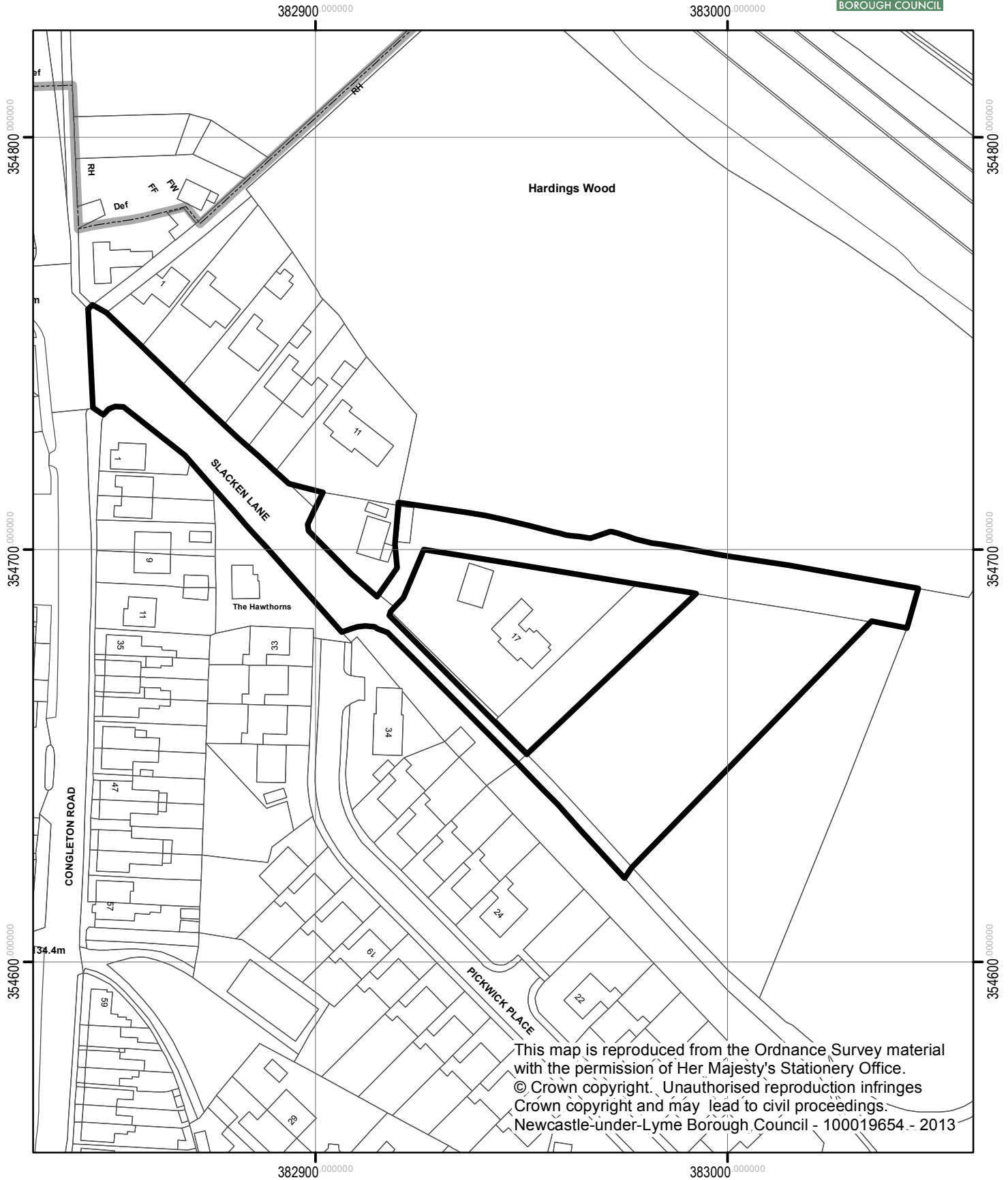
Planning file  
Planning documents referred to

#### Date report prepared

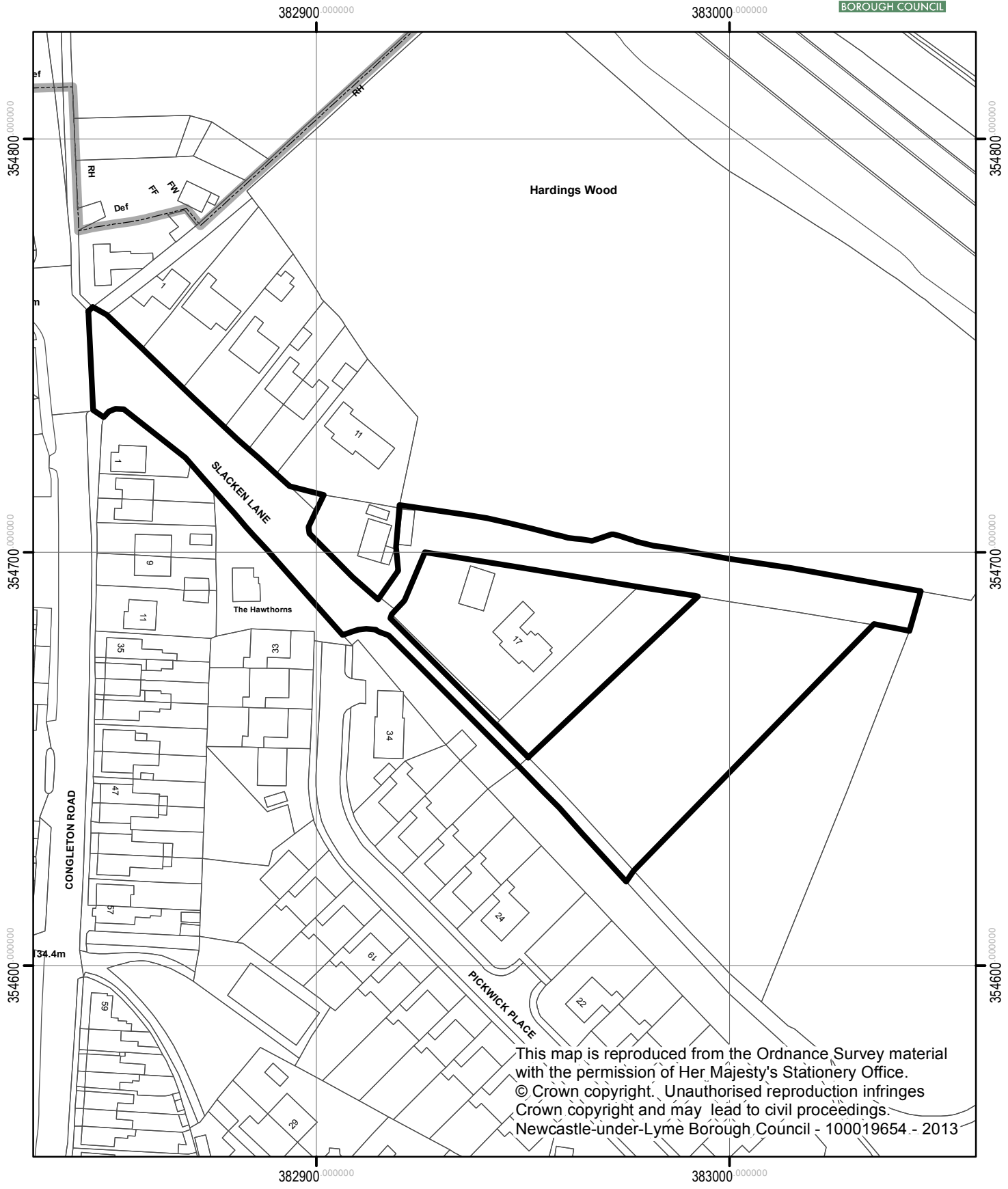
8<sup>th</sup> June 2017

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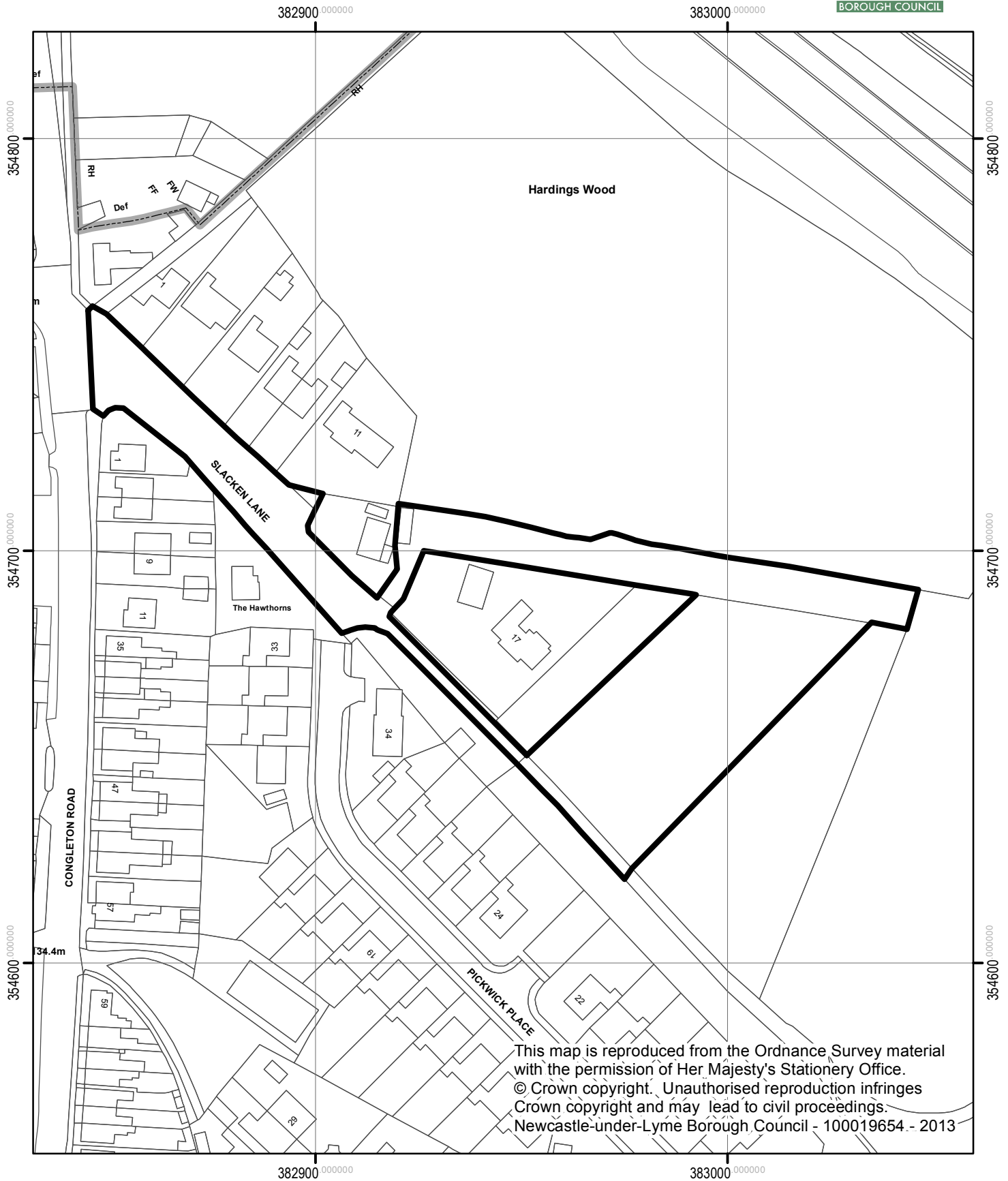




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**LAND AT CORNER OF CHURCH LANE AND SILVERDALE ROAD, SILVERDALE**  
**NEWCASTLE BOROUGH COUNCIL**

**16/00312/DEEM3**

The application is for advertisement consent for the erection of a 48 sheet unilluminated poster hoarding 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m.

The application site is within the Newcastle Urban Neighbourhood as specified on the Local Development Framework Proposals Map. The site is adjacent Church Lane (B5368) and Cemetery Road (B5044) classified roads.

**The 8 week period for the determination of this application expired on the 1<sup>st</sup> June 2017.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Approved (revised) plans.**
- 2. Tree protection measures.**
- 3. Highway method statement to address installation and maintenance of the sign.**

**Reason for Recommendation**

There will be no harm to the amenity of the area or to public safety and as such the proposal is therefore acceptable.

**Key Issues**

The application is for advertisement consent for the erection of a 48 sheet unilluminated advertisement hoarding 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m. A revised location plan has been received (which is consistent with the position of the sign as shown on the aerial photograph) which indicates that the sign is to be located within a landscaped area adjoining Church Lane and the rear of buildings on Stonewall Place in Silverdale.

**Amenity**

The NPPF at paragraph 67, states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment.

National Planning Practice Guidance (PPG) indicates that in assessing amenity, the local planning authority should consider the local characteristics of the neighbourhood. The example given is if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features. It goes on to say that this might mean that a large poster hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

The PPG therefore identifies the 'extremes' where hoardings are and aren't acceptable. In many cases poster hoardings are not proposed in locations where the decision is as clear cut as highlighted in the Government guidance. Generally, within the Borough and in other areas, the approach often adopted in the consideration of poster hoardings is that they are favourably considered if they are part of the temporary screening of a development site or where the general environment is so poor the hoarding would perform a positive function. In

other circumstances more careful consideration of the visual impact of the hoarding is required.

The poster hoarding proposed in this location will be seen against a backdrop of existing mature trees, the palisade boundary fence to Stonewall Industrial Estate and, when trees are not in leaf, the buildings within that Estate at a lower level. It is to be positioned approximately 60m north of the Church Lane/Cemetery Road/Silverdale Road crossroads junction and elevated in relation to that junction. The landscaped area upon which the hoarding is proposed is a relatively large area with modest trees within it, which is wide at the junction, extending in front of the Stonewall Estate as it adjoins Silverdale Road and narrows along Church Lane. The hoarding is proposed to be located where the landscaped area is relatively narrow, between the footpath that cuts across it and the boundary fence to Stonewall Industrial Estate. In this location it is considered that a hoarding can be accommodated within the landscaped area without visual harm although there may, as highlighted by the Landscape Development Section, be pressure for some limited tree removal to achieve visibility of the sign. The revised location received should lessen this pressure.

Members may recall that an application for a hoarding much closer to the crossroad junction was withdrawn following a recommendation of refusal (15/00945/DEEM3). The location of that hoarding was in a much more open and prominent position than is now proposed, within the gateway open space feature into Silverdale at this key junction.

#### Public safety

The Highway Authority has not raise public safety concerns in respect of the position of the hoarding. They recommended a condition requiring the submission and approval of information relating to the installation and maintenance of the proposed advertisement and it is considered appropriate to impose such a condition in this case.



## **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

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

Policy N17: Landscape Character – General Considerations

### **Other Material Considerations**

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

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

Relevant Planning History

15/00945/DEEM3 Advertisement Hoarding WITHDRAWN

Views of Consultees

The **Environmental Health Division** makes no comments.

The **Highway Authority** has no objections subject to a condition requiring the submission and approval of a method statement about the location of the parking of vehicles during installation and maintenance and the type of equipment used for the installation.

The **Landscape Development Section (LDS)** did originally express some concerns that the position of the hoarding and its orientation as submitted would put pressure on for the felling of trees (to provide visibility of the sign).

**Silverdale Parish Council** has no comments on the application.

Representations

None received.

Applicant/agent's submission

The application form, plans, planning statement and other supporting information (details of the Newcastle-under-Lyme Borough Council Income Project) can be inspected at the Guildhall and on the website that can be access by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/Plan/17/00312/DEEM3>

### **Background Papers**

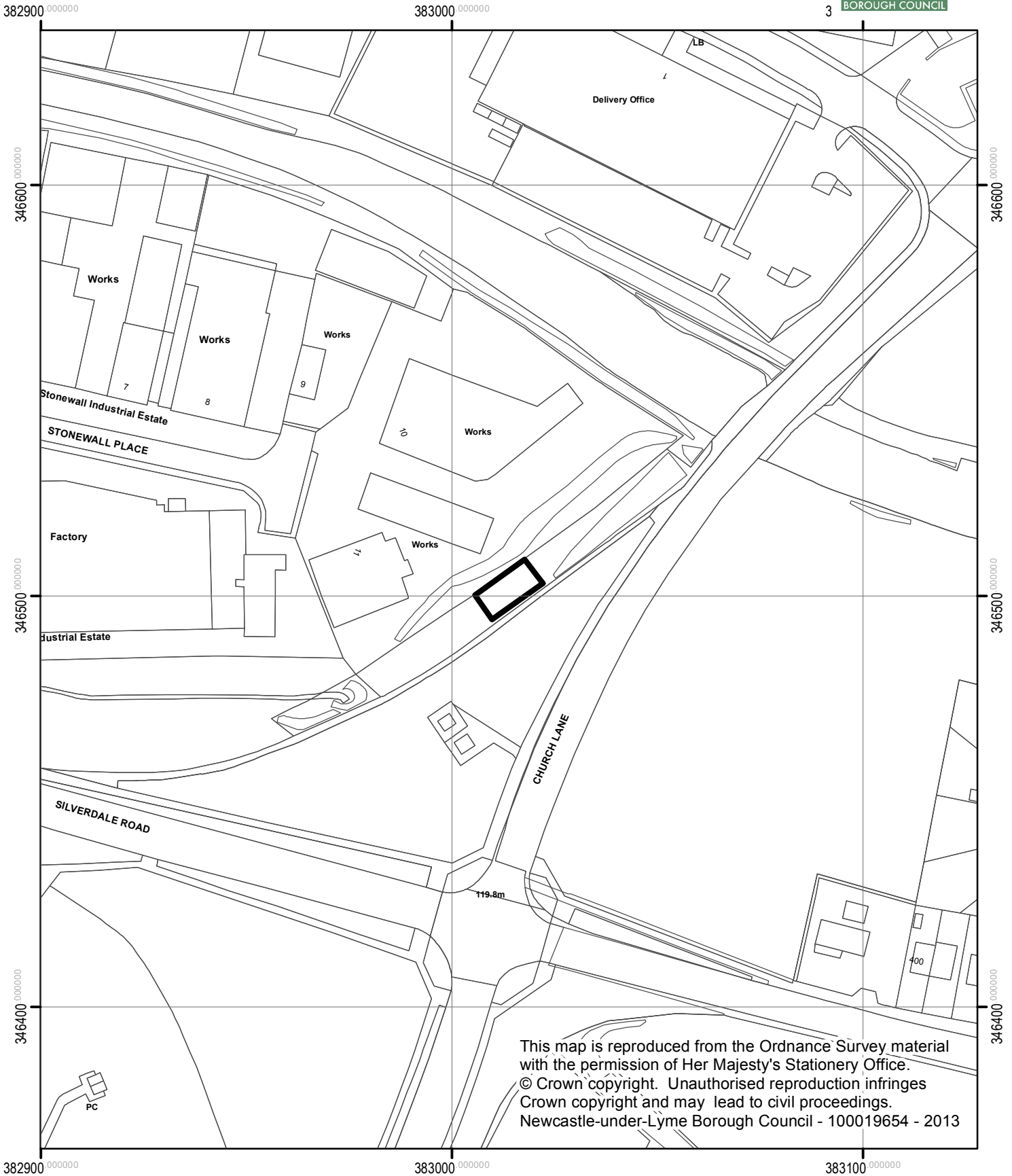
Planning File  
Planning Documents referred to

### **Date Report Prepared**

8<sup>th</sup> June 2017.

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**17/00312/DEEM 3**  
**Corner of Church Lane**  
**and Silverdale Road**



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**LAND AT LOWER STREET, NEWCASTLE**  
**NEWCASTLE BOROUGH COUNCIL**

**17/00315/DEEM3**

The application is for advertisement consent for the erection of two 48 sheet unilluminated poster hoardings each 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m..

The application site is within the Newcastle Urban Neighbourhood as specified on the Local Development Framework Proposals Map. The site lies adjacent to the west side of the A34 (Lower Street) in a position elevated above the footpath on a steep embankment.

**The 8 week period for the determination of this application expired on the 1<sup>st</sup> June 2017.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Submission and approval of a plan at a scale of 1:50 or 1:100 showing the precise position of the sign to ensure no/minimal impact on trees, that the hoarding or its foundations etc do not project forward of the crash barrier; .**
- 2. Landscaping of the embankment**
- 3. Highway method statement to address installation and maintenance of the sign.**

**Reason for Recommendation**

There will be no material harm to the amenity of the area or to public safety and as such the proposal is therefore acceptable.

**Key Issues**

The application is for advertisement consent for the erection of two 48 sheet unilluminated advertisement hoardings each 6.32m in width, the panel is 2.98m high arranged in a shallow 'V' shape. The sign is to be located on a landscaped embankment adjoining the northbound A34, Lower Street and positioned so that the signs are visible from Lower Street which will mean that they are in an elevated position above the adjoining footpath. The dimensions provided do not take account that the site lies below the level of the adjoining carriageway and it is assumed that the sign will be displayed at that level

**Amenity**

The NPPF at paragraph 67, states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment.

National Planning Practice Guidance (PPG) indicates that in assessing amenity, the local planning authority should consider the local characteristics of the neighbourhood. The example given is if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features. It goes on to say that this might mean that a large poster hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

The PPG therefore identifies the 'extremes' where hoardings are and aren't acceptable. In many cases poster hoardings are not proposed in locations where the decision is as clear cut as highlighted in the Government guidance. Generally, within the Borough and in other

areas, the approach often adopted in the consideration of poster hoardings is that they are favourably considered if they are part of the temporary screening of a development site or where the general environment is so poor the hoarding would perform a positive function. In other circumstances more careful consideration of the visual impact of the hoarding is required.

The poster hoardings proposed in this location will be seen from the nearest highway (the A34) against a backdrop of the roof of Morrison's supermarket, opposite the Vue Cinema. The site is not, therefore, in a visually sensitive location and from the A34 the signs will be acceptable in appearance.

The Landscape Development Section has raised objection to the application on the basis that the position of the hoardings appears to be within the canopy of trees which form a part of the visually prominent tree avenue along Lower Street. They do not support the pruning of the trees which has been acknowledged by the applicant to be required – 3 branches have been identified. They also raise concerns about the impact of the proposed steps, concrete hardstanding and footings on the root protection areas of adjacent trees

A block plan at an appropriate scale was requested from the applicant to indicate the precise position of the hoardings and any adjacent tree and its canopy and for the position of the hoarding to be adjusted to improve the relationship with such trees. Such a plan has not been provided and the additional photographs, with dotted red lines, that have been provided do not assist by providing a better understanding of the proximity of the hoarding to the trees and the likely impact on such trees. Notwithstanding this it appears clear that there is space along the embankment between the trees where a sign could be located with no material adverse impact on such trees, although as indicated some pruning works will be required. Subject to the agreement of the precise position of the hoarding, through the imposition of a condition, it is considered that the proposal could be acceptable in this regard. The signs are on the outside of the bend, which should help limit the amount of pruning required.

The back of the signs will be visible from the footpath, however the structure would be to some extent above the eye-line of those walking along the path. Given that the signs will only occupy a small section of the stretch of the embankment between the Grosvenor and Midway roundabouts it is not considered that it will be unduly overbearing and visually unacceptable to those using the footpath. As it appears that there is some opportunity to carry out landscaping around on the embankment to soften the appearance of the back of the signs it is concluded that the proposed poster hoardings are not considered harmful to amenity.

Notwithstanding the concerns expressed by the Landscape Development Section, the location is right on the edge of the town centre and visually dominated by the Vue Cinema and car park building opposite, and on this basis the proposed poster hoarding is not considered materially harmful to amenity.

#### Public safety

The Highway Authority have raised no objections subject to conditions to ensure that the hoarding or its foundations etc do not project forward of the crash barrier and that it does not affect the visibility of the directional highway sign; and a method statement is provided to address installation and maintenance of the sign. It is considered appropriate to impose conditions to avoid any parking on Lower Street itself and to avoid encroachment onto the carriageway, but other signage, the view of which by road users is not affected by the hoardings, is considered sufficient to protect highway safety.

Overall it is considered that the poster hoardings are not harmful to public safety by virtue of its scale or location. There are no significant public safety concerns to address.

## **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

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

Policy N17: Landscape Character – General Considerations

### **Other Material Considerations**

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

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

Relevant Planning History

None relevant.

Views of Consultees

The **Landscape Development Section** has concerns about the impact of the hoardings on retained adjacent trees. The position of the hoardings appears to be within the canopy of these trees, which form a part of the visually prominent tree avenue along Lower Street. Pruning (and the repeated pruning of trees which would be required as they mature) to accommodate the hoarding would not be supported. The installation of the proposed steps, concrete hardstanding and footings may also impact upon the RPA (Root Protection Area) of these trees. In addition there are concerns about the visual impact of the rear of the hoardings which will be clearly visible from the public footpaths and from the adjacent supermarket. Notwithstanding the additional information that has been submitted they remain concerned, particularly about the proposed pruning of adjacent trees

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

- No part of the proposed advertising hoarding or its foundations, fixtures and fittings shall project forward of the crash barrier
- the submission and approval of a method statement about the location of the parking of vehicles during installation and maintenance and the type of equipment used for the installation
- Hoarding to be sited to ensure drivers forward visibility of the directional signage on Lower Street is not impeded in accordance with details to be agreed beforehand.

### **Representations**

None received.

Applicant/agent's submission

The application form, plans, planning statement and other supporting information (details of the Newcastle-under-Lyme Borough Council Income Project) can be inspected at the Guildhall and on the website that can be access by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/Plan/17/00315/DEEM3>

### **Background Papers**

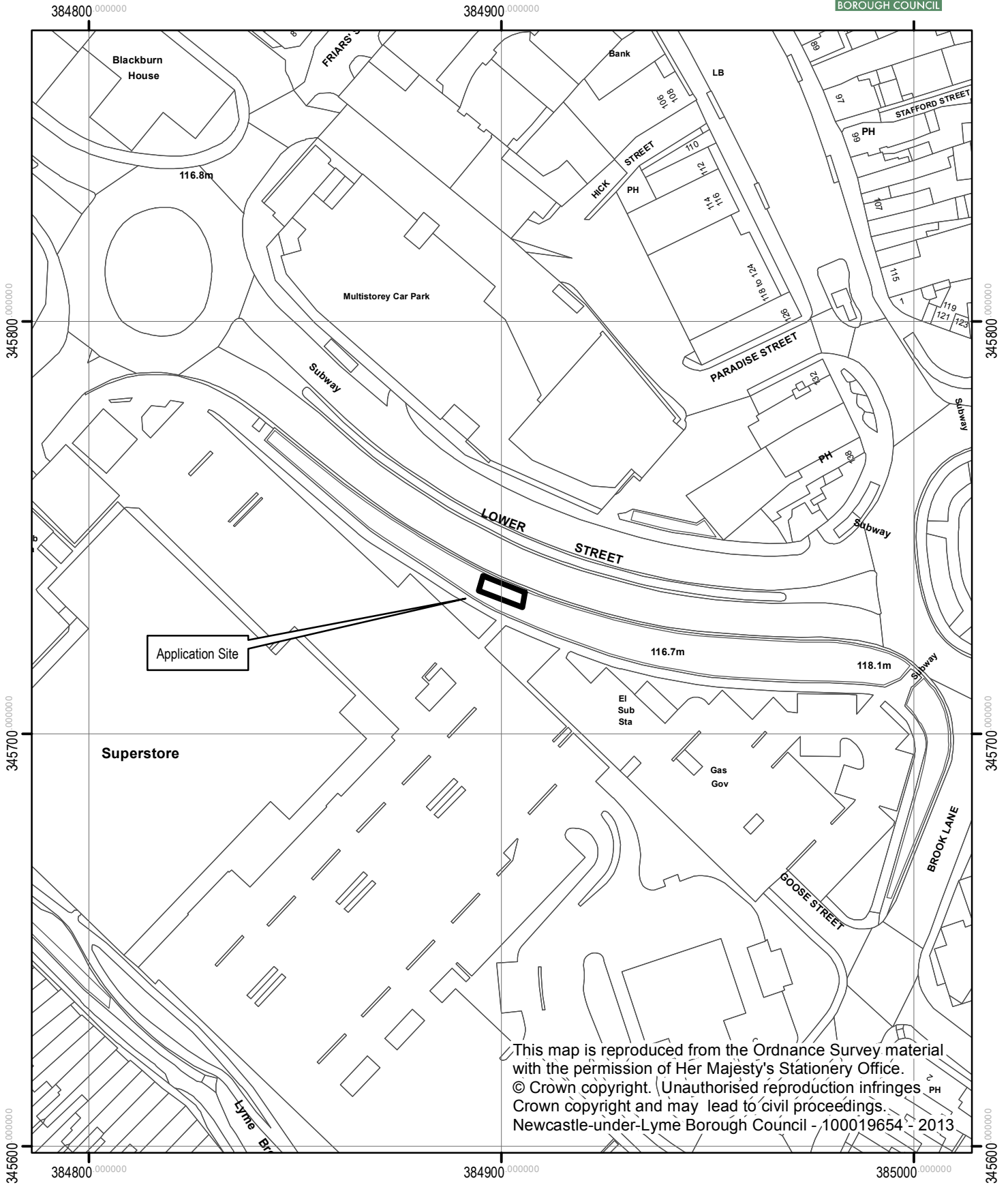
Planning File

Planning Documents referred to

**Date Report Prepared**

8<sup>th</sup> June 2017.





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**FAIRFIELD HOUSE, BAR HILL ROAD, ONNELEY**  
**MR & MRS K LEA**

**17/00405/AAD**

The Application is for a Certificate of Appropriate Alternative Development, under Section 17 of Part III of the Land Compensation Act 1961, as amended by the Localism Act, at Fairfield House, Bar Hill Road, Onneley. The application has been submitted following the Department of Transport's acceptance of a Blight Notice and thus to compulsorily purchase the property and land to develop it as part of the High Speed Two Infrastructure project (HS2). The applicant has suggested that the erection of two dwellings is an appropriate alternative to the use of the site for purposes associated with HS2.

The site is within the open countryside outside of any defined village envelope and within an area of Landscape Enhancement (policy N20) all as defined on the Local Development Framework Proposals Map.

**The two month statutory determination period expires on 10<sup>th</sup> July 2017.**

## **RECOMMENDATION**

**(A) That a positive Certificate be issued indicating that it is the opinion of the Local Planning Authority that planning permission would have been granted for the following development, in addition to the development for which the land is to be acquired, if it were not proposed to be acquired by the Authority possessing compulsory purchase powers;**

- (i) Construction of two dwellings, up to two storey in height, with a footprint as indicated on the submitted plan**
- (ii) Construction of two buildings for use falling within Class C4 (small houses in multiple occupation)**
- (iii) Construction of a building/s for uses falling within Class B1 (b) and (c) (research and development and light industry)**
- (iv) Any other uses which, should the comments of the County Council not be received prior to the meeting, your Officer considers appropriate to include**

**(B) That planning permission would have been granted for the above development, at the relevant date or if permission granted after the relevant date, subject to the conditions relating to the following which may have an impact on the value of the land:**

- 1. Widening of the access and provision of vehicle visibility splays.**
- 2. Provision of suitable noise attenuation measures and restriction on hours of use for any Class B1 use of the site.**
- 3. Any conditions relevant to developments identified following receipt of the comments of the County Council**

**And such certificate shall include a statement of the Council's reasons for the above opinion, which shall be based upon the content of this report, and that your officers should have delegated authority to ensure that the Certificate to be provided meets the statutory requirements**

## **Reason for Recommendation**

Two dwellings, two small houses in multiple occupation, and low key rural employment uses falling within Class B1 (b) and (c) all would be considered as appropriate alternative development of the site. The site could be accessed safely; without unacceptable visual impact and ensuring appropriate living conditions for existing and future residents. The comments of the County Council are awaited and need to be taken into account by the Local Planning Authority in its decision, but their views on a similar application for the adjoining site are known

## **KEY ISSUES**

The application is for a Certificate of Appropriate Alternative Development, under Part III of the Land Compensation Act 1961, on land at Fairfield House, Bar Hill Road, Onneley. In circumstances where land and property is to be compulsorily purchased, the certificate procedure provides a mechanism for indicating the descriptions of development (if any) for which planning permission can be assumed i.e. those which an owner might reasonably have expected to sell his land for in the open market if it had not been publicly acquired. The right to apply for a certificate arises at the date when the interest in land is proposed to be acquired by the acquiring authority. The acquiring authority in this case is HS2 and it is to be acquired for purposes associated with the HS2 project. The 'relevant date' in this case was 3<sup>rd</sup> May 2016.

The application is not a planning application. The permissions or use indicated in a certificate of appropriate alternative development can briefly be described as those with which an owner might reasonably have expected to sell his land in the open market if it had not been publicly acquired.

The LPA should come to a view, based on its assessment of the information contained within the application and of the policy context applicable at the relevant date, the character of the site and its surroundings, as to whether such a development suggested in the application or any other development would have been acceptable to the Authority (even if not specified in the application). If it is giving a positive certificate (one that indicates that planning permission would have been granted for one or more classes of development in respect of the application site, in addition to the development for which the land is being acquired), the LPA must give a general indication of the conditions and obligations to which planning permission would have been subject. As this process forms part of a valuation process the general indication of conditions and obligations should focus on those matters which affect the value of the land. Conditions relating to detailed matters such as approval of external materials would not normally need to be indicated, unless such detailed matters do affect the value of the land.

In this case there has been no change in policy since the relevant date (3<sup>rd</sup> May 2016) and as such the current Development Plan is applicable to the assessment of the suggested appropriate alternative development and all the development that is appropriate alternative development as required by the legislation.

The main issues to consider are as follows:

- Is the construction of two dwellings, and/or any other development acceptable in principle on this site in consideration of the policy context?
- Would development of the site be acceptable in consideration of the site and its surroundings?

**Is the construction of a single dwelling, and/or any other development acceptable in principle on this site in consideration the policy context?**

### *Residential development*

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

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

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 indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within one of the village envelopes.

The site as garden would be defined as greenfield land and, as indicated above, it is not within a village envelope and nor would the proposed dwelling serve an identified local need as defined in the CSS. The policies referred to above therefore don't offer support for the principle of residential development on the site.

The Local Planning Authority (the LPA), by reason of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%.

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

Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47). As the Borough does not have a 5 year supply of housing land, by operation of paragraph 49, paragraph 14 of the NPPF applies.

Paragraph 14 indicates that at the heart of the Framework is a presumption in favour of sustainable development and that this means, for decision-taking, 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 as a whole; or
- specific policies in the Framework indicate development should be restricted.

Looking at the second limb, examples are given of 'specific policies' in the footnote to paragraph 14 such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation nor is it contrary to any other restrictive policies set out in the NPPF. As such the second limb does not apply in this case. The 'weighted' balancing exercise set out in the first limb therefore applies in this case.

The site is approximately 625m to the village envelope boundary of Madeley and approximately 1.75km from the centre of Madeley (containing the shops, secondary school and the Madeley Centre) which could be safely reached on foot on pavements for the entire route and are within the 2Km threshold that is sometimes referred to as the preferred maximum walking distance for commuters and the users of education facilities. Within the village there are some facilities such as the Sir John Offley Primary School and All Saints Primary School considerably closer than 1.5km from the site. The occupiers of the new development would, therefore, have reasonable choice of modes of transport and it is likely that they would support the services and facilities that are available in the village. In its consideration in 2016 of a similar application with respect to the adjoining property only some 20 metres or so closer to the village centre the same position was accepted. The development is therefore acceptable in respect of its location. In addition, no adverse impact has been identified, as explained below, that would significantly and demonstrably outweigh the benefits of this proposal which are the modest contribution to the supply of housing that is made and the economic benefits associated with the construction and occupation of 2 dwellings.

*Other development*

Given that the site is not within an existing centre on the edge of a centre and policies of the Development Plan do not support 'main town centre' uses in such a location it is considered that the use of the site for any of the uses falling within Class A, Class B1a (offices), Class C1 (hotels) and Class D2 (assembly and leisure) are not appropriate on this site. Whilst not strictly 'main town centre uses' it is not considered that Class D1 (non-residential institutions) would be appropriate alternative uses by virtue of the size of the site and the site's location outside of an existing centre.

Taking into account the size of the site and the proximity of other dwellings uses falling within Class B2 (general industrial) and Class B8 (storage and distribution) would not be appropriate for this site. The restricted size of the site makes it unsuitable for uses falling within Class C2 (residential institutions) and Class C2A (secure residential institutions).

Policy ASP6 and the NPPF supports rural enterprise in the open countryside in locations where local workforce is available. Given the relatively close proximity of the site to Madeley it is considered that uses falling within Class B1(b) (research and development) and B1(c) (light industrial) would be appropriate and supported by policy as it could be of a small scale. Uses falling into class B1 are uses that can be carried out in any residential area without detriment to the amenity of that area and as such the proximity of the existing residential properties adjoining the site would not prevent permission being granted.

The only other use that is considered would be an appropriate alternative use is a use falling within Class C4 (small houses in multiple occupation) given the similarity of such a use to Class C3 (residential).

The Borough Council also needs to consider whether any type of development which the County Council would normally be the responsible Local Planning Authority would be appropriate – such as waste and mineral development. The County Council has previously indicated that having regard to the policies and proposals within the Minerals and Waste Plans, the location of the adjacent site, its extent and the proximity to other residential development it was reasonable to conclude that the extraction of any underlying mineral resource from that site and the development of a waste management facility on that site would not be appropriate. Whilst the comments of the County Council on this current application are awaited there is no reason to expect that they will express a different view here.

### **Is the development of the site acceptable in consideration of the site and its surroundings?**

There are a number of factors that need to be addressed in this regard.

#### *Impact on the character and appearance of the site and its surroundings*

The site falls within an Area of landscape enhancement and as such saved policy N20 of the Local Plan applies. The policy indicates that proposals that will enhance the character and quality of the landscape will be supported and that within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

Saved policy N12 indicates that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design.

The site forms part of a large garden area of Fairfield House. There is mature hedgerow, a number of mature trees around the periphery and predominantly orchard/garden trees within, the site. Whilst a number of trees would be lost and some hedgerow removed to enable the widening of the access, two buildings and access to them could be sited and constructed without loss of any significant landscape feature and without any adverse impact on the character and quality of the landscape.

The siting of the dwellings would be to the rear of Fairfield House but a similar distance from the highway as the dwellings either side of the site and if suitably designed would be in keeping with its setting.

*The acceptability of the development in respect of amenity.*

Two dwellings could be constructed on the site that would not result in any material loss of amenity or result in an overbearing impact on the adjoining residential property whilst also ensuring that the occupiers of the buildings, if in residential use, would have acceptable living conditions.

As indicated above, Class B1 uses are, by definition, uses which can take place in a residential area without adverse impact on residential amenity. Subject to careful control over any the design of any building, to ensure appropriate noise mitigation, and hours of operation it is considered that low key employment development could take place without adverse impact on residential amenity.

*The acceptability of the development in highway safety terms.*

The Highway Authority has objected due to a lack of details of the proposed vehicle visibility splays at the access and in the absence of a speed survey to determine the required visibility splays.

Given that visibility is good in both directions at the access and in recognition of the observed speeds of vehicles along the road, appropriate visibility splays could be achieved on land within the applicant's ownership and control. Given that this is not an application for planning permission the applicant is not required to provide such information and in the circumstances it would be inappropriate to require the information that has been requested by the Highway Authority or to issue a negative certificate on the basis that development would not be appropriate due to highway safety issues.

If the development on the site is for employment purposes it will be necessary to ensure that suitable parking and turning facilities are provided. The site is physically capable of accommodating a parking area and turning facility without the loss of visually significant trees. It would not be appropriate for large vehicles to access the site but that could be controlled by the use of a condition and as such does not provide justification for ruling out low key employment uses as appropriate alternative development.

**Summary**

Development of the site as for 2 dwellings falling within Class C3, as 2 small houses in multiple occupation falling within Class C4 and uses falling within Class B1 (other than offices) would be acceptable in consideration of the site and its surroundings.

## **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](#)

Strategic Aim 16:	To eliminate poor quality development;
Policy SP1:	Spatial Principles of Targeted Regeneration
Policy SP2:	Spatial Principles of Economic Development
Policy SP3:	Spatial Principles of Movement and Access
Policy ASP6:	Rural Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change

#### [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 N20:	Area of Landscape Enhancement

[Staffordshire and Stoke-on-Trent Minerals Local Plan 2015 – 2030](#) – within a mineral safeguarding area for bedrock sand and gravel

#### [Staffordshire and Stoke-on-Trent Joint Waste Local Plan 2010 – 2026](#)

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

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

[DCLG's Guidance on Compulsory Purchase Process and the Crichel Down Rules for the Disposal of Surplus Land Acquired by, or Under the Threat of, Compulsion \(2015\)](#)

#### Supplementary Planning Guidance/Documents

#### [Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

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

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

#### Relevant Planning History

None relevant

#### Views of Consultees

**Madeley Parish Council** has no objections.

The **Highway Authority** object on the basis that there are no details of the proposed vehicle visibility splays.

The **Landscape Development Section** indicates that there are many trees on and adjacent to the site that would be affected by the proposed buildings and access and request an Arboricultural Impact Assessment to BS5837:2012 before comments can be provided.



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

The **County Planning Authority as Minerals and Waste Planning Authority** have very recently been consulted as required. In responding to a similar application (16/00510/AAD) on immediately adjoining land the County Council in July 2016 indicated that having regard to the policies and proposals within the Minerals and Waste Plans, the location of that site, its extent and the proximity to other residential development it was reasonable to conclude that the extraction of any underlying mineral resource from the site and the development of a waste management facility on the site would not be appropriate

Representations

None

Applicant/agent's submission

The applicant has submitted a supporting statement which can be viewed on the Councils website at <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00405/AAD>

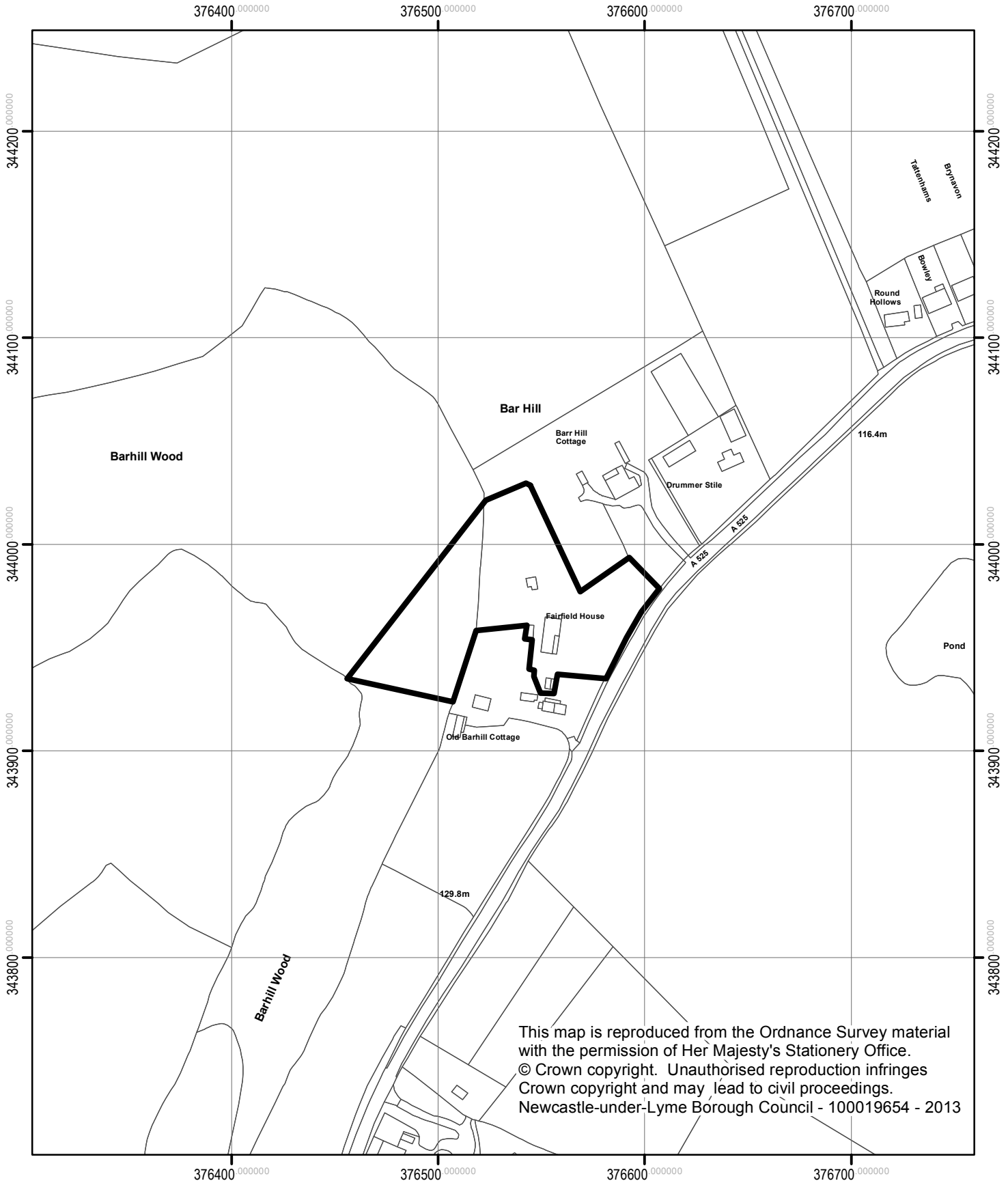
Background Papers

Planning Policy documents referred to

Date report prepared

9<sup>th</sup> June 2017

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## HALF YEARLY REPORT ON PLANNING OBLIGATIONS

### Purpose of the Report

To provide Members with a report on planning obligations which have been secured over the 6 month period referred to in this report, obligations which have been modified either by application or agreement, works that have been funded in part or in whole by planning obligations within this period, and compliance with their requirements

### Recommendations

- a) That the report be noted
- b) That the Head of Planning continue to provide such a report on a half yearly basis to the Planning Committee

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 8<sup>th</sup> November 2016 and covered the period between 1st April 2016 to 30<sup>th</sup> September 2016. This report now covers the period between 30<sup>th</sup> September 2016 to 31<sup>st</sup> March 2017 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete. Planning obligations can be secured by agreement or by unilateral undertaking. These are sometimes known as Section 106 agreements or undertakings – being entered into pursuant to Section 106 of Town and Country Planning Act 1990, as amended.

As with previous half yearly reports the relevant Section 106 information is reported in various Tables.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2016 to 31st March 2017)**

This Table identifies developments where planning obligations by agreement or by undertaking have been entered into by developers/owners. It does not include the obligations entered into by the public authorities, except where they are the landowner/developer. The cases involve both financial contributions, the provision of development such as affordable housing and obligations which restricts the use of a development e.g. non-severance of ancillary accommodation. Contributions are usually payable upon commencement of the development (the payment "trigger"), but that can vary. If a development is not undertaken it follows that there is no requirement to pay the contribution.

<b>Application reference and date of agreement or undertaking</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) entered into by developers/owners</b>	<b>The level of contribution(s) payable when development trigger achieved</b>
16/00326/FUL 30 <sup>th</sup> September 2018	Former Woodshutts Inn, Lower Ash Road, Kidsgrove	Variation of condition 15 (odour abatement system) of planning permission 14/00767/FUL for the construction of 22 affordable dwellings	Education Contribution (St Saviours) but only should a reappraisal be required and demonstrate one can be provided)	Nil but upon reappraisal up to £22,062 (Index Linked)
			Public Open Space (Clough Hall Park) contribution but only should a reappraisal be required and demonstrate one can be provided	Nil, but upon reappraisal up to £64,746 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
16/00609/FUL 24 <sup>th</sup> November 2016	Land Adjacent The Sheet Anchor, Newcastle Road, Whitmore	The construction of 7 new houses with access road and associated landscaping	Off-Site Affordable Housing contribution	£19,339 (Index Linked) but upon reappraisal up to £21,9.79
			Public Open Space contribution towards enhancement and maintenance of POS in the locality	£20,601 (Index Linked)
			Financial Viability Re-Appraisal Mechanism.	Not Applicable

16/00712/FUL 30 <sup>th</sup> November 2016	New Look, Pit Head Close, Newcastle-Under-Lyme	Extension to existing storage facility (class B8), 2 storey office extension and associated car park works	Travel Plan Monitoring contribution	£2,100 (Index Linked)
15/00015/OUT 26 <sup>th</sup> January 2017, but was conditional upon the grant of consent at appeal 22 <sup>nd</sup> March 2017	Tadgedale Quarry, Mucklestone Road, Loggerheads	Erection of up to 128 dwellings	25% Affordable Housing (on site)	Not Applicable
			On site open space maintenance	Not Applicable
			Secondary Education Contribution (Madeley High School)	Maximum of £232,708 depending on the numbers of school places (Index Linked)
			St. Marys School Mode Star sum (sustainable access arrangements)	£5,000
16/00874/FUL 24 <sup>th</sup> February 2017	Land West Of Barrie Gardens, Talke	10 Single storey 2 bed dwellings (Resubmission of planning application 15/00956/FUL)	Public Open Space contribution towards enhancement and maintenance of open space at Coalpit Hill	£24,352.80 (Index Linked)
16/00958/FUL 14 <sup>th</sup> March 2017	Marks And Spencer, Wolstanton Retail Park, Newcastle Under Lyme	Variation of condition 3 (To increase the amount of floorspace within the M&S store that can be used for convenience goods sales to 1,496sqm) of original planning permission 11/00611/FUL -	Same terms as original agreement concluded 18 <sup>th</sup> October 2012	

**Table 2 – Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1<sup>st</sup> October 2016 to 31<sup>st</sup> March 2017)**

This Table identifies developments where planning obligations by agreement or undertaking have been modified or discharged. The list includes decisions made under Section 106A (to vary or discharge the terms of an obligation), under Section 106BA which allowed the review of planning obligations on planning permissions which related to the provision of affordable housing, and where the Council has, without a formal application having been made, agreed to amend or modify an existing agreement .

Application Number (if applicable) & Reference Number of original related permission and date of modified /discharged agreement	Location of Development	Application	Decision
12/00127/OUT 24 <sup>th</sup> March 2017	Land South Of West Avenue, West Of Church Street And Congleton Road, And North Of Linley Road, Butt Lane, Kidsgrove	Residential development of 172 dwellings, area of community woodland, public open space and formation of new accesses	<ul style="list-style-type: none"> <li>• The period of time within which the Public Rights of Way Contribution can be spent was extended by a further six months i.e the contribution to be spent within 18 months.</li> <li>• The Mortgagee exclusion clause within the Affordable Housing Schedule was amended by deletion of reference to 'mortgagee in possession' and its replacement with the term 'mortgagee'.</li> </ul>



**Table 3 - Development where financial contributions have been made (1st October 2016 to 31st March 2017)**

This Table identifies the developments where a planning obligation requires the payment of a financial contribution and the trigger for payment has been reached and payments have been made. The sum of the contribution may differ from that originally secured due to it being a phased payment of the contribution, or the application of indexation. Because of difficulties experienced in obtaining this information it may be incomplete particularly with respect to contributions that may have been made directly to the County Council. Whilst some information has been received from the County Council the Table maybe incomplete. If an update is available prior to the meeting then one will be provided.

<b>Permission reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) subject of contributions received</b>	<b>Contribution made and to whom</b>
16/00712/FUL	New Look, Pit Head Close, Newcastle-Under-Lyme	Extension to existing storage facility (class B8), 2 storey office extension and associated car park works	Travel Plan Monitoring Sum	£2,100 SCC
14/00968/FUL	Former T G Holdcroft, Knutton Road, Wolstanton, Newcastle	Erection of 31 retirement dwellings,communal facilities, car parking and provision of landscaping areas	Off-Site Affordable Housing contribution	£174,715 NBC

**Table 4 - Development where financial contribution have been spent. (1st October 2016 to 31st March 2017)**

This Table identifies those developments where the spending authority have advised the Planning Authority that they have spent within the above period a financial contribution secured via planning obligations. The Table refers to expenditure by the Education Authority and by the Borough Council and accordingly may be incomplete. In the next 6 monthly report an update will, hopefully, be provided. The Table only refers to the spending of financial contributions, it does not refer to on-site affordable housing that has been provided as a consequence of planning obligations.

<b>Permission associated with the planning obligation as a result of which funding was received</b>	<b>Location of development referred to in the permission</b>	<b>Development</b>	<b>Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation</b>	<b>How the contribution has been spent</b>
12/00512/FUL	Former Thistleberry House Residential Home, Keele Road, Newcastle Under Lyme	Demolition of existing Thistleberry House building, erection of 37 dwellings and creation of new access off Keele Road (Taylor Wimpey Development)	£90,434.00 received for the provision of educational facilities within the vicinity of the land.	<p>The County Council have spent the contribution amount on the expansion of St Giles &amp; St George's Church of England Academy on St Paul's Road, Off Orme Road, Newcastle.</p> <p>The expansion will help to deliver a further 7 classrooms plus ancillary requirements, i.e. Toilets, fixtures and fittings, IT equipment that was needed to support a further increase of approximately 210 pupils.</p>

**Table 5 to Half yearly report on Planning Obligations - Developments where apparent breaches of planning obligation has been identified**

This Table identifies developments where either the triggers for the payment of financial contribution have been reached and no payment has yet been received, or there is some other current breach in terms of the obligation/undertaking. It also includes cases brought forward from previous periods, which have not yet been resolved, and cases reported in the last half yearly report which have now been resolved and can be considered “closed”.

<b>Permission reference &amp; Date of Obligation</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation and description of the apparent breach</b>	<b>Action taken and to be taken to resolve the apparent breach.</b>
99/00918/FUL  13 <sup>th</sup> Feb 2012	Land off Grange Lane Wolstanton Newcastle	Residential development	Provision of toddlers play area at the bottom of Minton Street no later than the date upon which 214 dwellings completed or 13 <sup>th</sup> Feb 2015 which ever is the sooner.  The toddlers play area was not provided when it should have been which was a breach of the S106 obligation.	Bloor homes have now provided the toddlers play area and subject to them agreeing to maintain it for a period of 12 months the Landscape Development Section has confirmed that they are happy with the breach has been resolved.  This case can now be closed.
12/00701/FUL  13 <sup>th</sup> May 2013	Former Randles Ltd, 35 Higherland, Newcastle Under Lyme	Change of use of ground floor to A1 retail (convenience goods), installation of a replacement shopfront, associated external alterations and works including the recladding of the building and formation of a car park and amended site access	A financial contribution of £36,017 (index linked) towards the Newcastle (urban) Transport and Development Strategy (NTADS) is required to have been paid prior to the commencement of the development.  That has not happened	The ground floor of the building has been operating as a Tesco food store for over a year. The County Council and the Borough Council have requested the outstanding amount which will need to have index linking applied, and in the event of payment still not being made further action may need to be taken.

				Efforts have been made to contact the owner but no response has been received. The matter has now been passed to the County Council's legal/monitoring section to progress and an update will be provided at the point that one is available.
15/00329/FUL  27 <sup>th</sup> May 2015	The Skylark High Street Talke	Demolition of existing public house and erection of ten dwellings	A financial contribution of £15,000 (index linked) towards Public Open Space enhancements and maintenance at Chester Road playground should have been made within 9 months of the commencement of the development. The applicant previously confirmed that the development commenced in September 2015. Therefore the payment was due by the end of June 2016. The contribution has not been paid to date.	<p>The development has now been completed and the ten dwellings have been sold without the payment being made.</p> <p>The Unilateral Undertaking provides that liability for the payment transfers to any person who subsequently becomes the owner of the land which is the subject of the undertaking.</p> <p>The outstanding amount with index linking and interest applied is now £15,766.71.</p> <p>Letters have been sent out to the homeowners advising that £1576.67 per household is now due. Bills now to be issued</p>

<p>11/00430/FUL 10<sup>th</sup> May 2012</p>	<p>Land off Keele Road, Thistleberry</p>	<p>Replan of part of the development, incorporating 13 additional units</p>	<p>The obligation secured an additional POS contribution of £38,259 (index linked) to reflect the additional number of units. The payment should have been made prior to the commencement of the construction of the 48<sup>th</sup> dwelling within the 61 unit development, but was not.</p>	<p>Officers will be writing again to the developer requiring payment of the indexed sum.</p>
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## **Confirmation of Tree Preservation Order**

Trees at 16 Dimsdale Parade East, Newcastle

### **Tree Preservation Order No 180 (2017)**

Town & Country Planning Act 1990

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

### **The Provisional Order**

This Provisional Tree Preservation Order protects an individual Lime tree in the front garden of 16 Dimsdale Parade East.

**The 6 month period for this Order expires on 27<sup>th</sup> July 2017.**

### **RECOMMENDATION**

That Tree Preservation Order No 180 (2017), 16 Dimsdale Parade East be confirmed as made and that the owners of the site be informed accordingly.

### **Reasons for Recommendation**

#### **Background**

Your officers are of the opinion that the longer-term visual amenity of the tree was best secured by the making of a Provisional Tree Preservation Order after concerns were raised that that owner of the property wished to fell the tree.

The tree is a visually prominent roadside tree on a busy main route between Dimsdale (Wolstanton) and May Bank.

The property is directly opposite Wolstanton Marsh (a large and well used area of open space). The Lime tree is clearly visible from the Marsh.

There are glimpse views of the tree from Southlands Avenue, Milehouse Lane and from the junction of Silverdale Road and Dimsdale Parade East.

The tree is a prominent individual that makes a valuable contribution to the local landscape.

Other front garden trees do not meet the criteria for protection through a Tree Preservation Order.

The loss of the Lime tree would have a detrimental effect on the visual amenity, not only of the site but also to the locality.

Your officers are of the opinion that the tree is generally healthy at present and is of sufficient amenity value to merit the making of a Tree Preservation Order. The Lime is considered to be an appropriate species for the locality, and provides public amenity value due to its form and visibility from public locations.

In order to protect the long-term wellbeing of this tree it should be protected by a confirmed Tree Preservation Order.

## **Representations**

Following the consultation period no representations were received.

## **Issues**

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.

The owner will be able to apply for permission to carry out maintenance work to the trees as necessary in order to safely manage them.

Your officer recommends that the Lime tree is permanently protected and that TPO180 (2017) be confirmed as made.

## **Date report prepared**

19<sup>th</sup> May 2016



**View from Dimsdale Parade East (facing northeast)**



**View from Dimsdale Parade East (facing southeast)**

T1 Lime tree



## CONFIRMATION OF ARTICLE 4 DIRECTIONS FOR THE BRAMPTON AND WATLANDS PARK CONSERVATION AREAS

Report to Planning Committee 20<sup>th</sup> June 2017

### Purpose of the report

To provide the Committee with the opportunity to consider any comments received on the Article 4 Directions for the Brampton and Watlands Park Conservation Areas and to decide whether to confirm the Directions.

### Recommendation

**That the Committee confirms the non-immediate Article 4 Directions for the Brampton and Watlands Park Conservation Areas as coming into force on 29<sup>th</sup> June 2017, as set out in the Directions.**

### Reasons

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

## 1.0 Background

- 1.1 The Planning Committee, on 25<sup>th</sup> April 2017 resolved that a non-immediate Article 4 Direction be issued to remove certain permitted development rights with respect to specified properties within the Brampton and Watlands Park Conservation Areas including rights associated with works of improvement, extension and alteration of a dwelling, works to boundary walls and the demolition of such walls. This was made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.2 In both cases a non-immediate Direction has been progressed which will come into effect on 29<sup>th</sup> June if now confirmed. The Council in deciding whether or not to confirm the Directions is required to take into account any representations received during the consultation period.

## 2.0 Consultation

- 2.1 Representations were invited between 15<sup>th</sup> May and 5<sup>th</sup> June 2017. In accordance with legislation, the relevant notifications were undertaken. The Council's Conservation Advisory Working Party supports the making of Article 4 Directions for the Brampton and Watlands Park Conservation Areas. With particular regard to the Watlands Park Conservation Area, the Working Party considered that the Direction is justified as a lot of infill housing has been constructed which is not good quality in appearance and it is necessary to control further development to avoid further unsympathetic alterations damaging the special character of the Conservation Area.
- 2.2 No representations have been received with regard to the Direction for the Brampton Conservation Area. Four representations have been received in connection with Watlands Park Conservation Area. One is from the Watlands Park Residents'

Association and follows a meeting of the Association. These representations are summarised below but copies of the representations are available as background documents, from [planningconservation@newcastle-staffs.gov.uk](mailto:planningconservation@newcastle-staffs.gov.uk)

- 2.3 Watlands Park Residents' Association are concerned on residents' behalf that there is a lack of clarity on what is acceptable if planning permission has to be applied for. The main issues are whether the Council would insist barge boards are replaced with timber ones rather than plastic ones due to expense and maintenance costs; whether the Council would grant planning permission for windows of a "good quality plastic version in keeping with the style of the property"; and if windows which have already been altered or replaced in either upvc or timber can be replaced with plastic. With respect to windows the importance of reducing householders' carbon footprint by installing double glazed windows is emphasised. The Association assert that all residents are unanimous and supportive in the desire for a Conservation Area but that they want to delay the Article 4 Direction confirmation awaiting satisfactory answers to the above questions.
- 2.4 A resident from Woodland Avenue wants more specific information about windows and barge boards and that plastic should be an acceptable alternative given expense of timber and ongoing maintenance costs. They also think the presence of an Article 4 Direction may deter prospective future sale of properties which are affected and prevent people from making their homes more energy efficient. The Residents Association express an opposite concern that properties will become an exclusive enclave due to the constraints of the Article 4 Direction.
- 2.5 A resident from High Street objects to the Direction because it is their property which is the only semi-detached property affected by the Order on High Street. The windows and porch door are already in upvc and they think selling a property will be more difficult with the Direction in place.
- 2.6 A resident from Woodland Avenue objects to the Direction for Watlands Park and feels that it will make living in the area too expensive to maintain the properties leading to a decline in the housing. In general again fears are around replacing bargeboards and windows and the desire to replace with upvc.

### **3.0 Response to representations**

- 3.1 In response, the general points being raised are around replacement windows and barge boards and the ability to change them to upvc. The Residents' Association have raised a number of questions they want answered to their satisfaction before they want to commit to the Direction. The Watlands Park Conservation Area has been designated largely at the request and in conjunction with the Residents Association who have also supported the premise of an Article 4 Direction through the Appraisal process and the consultation upon it. Part of the historic character of the area is the nature and quality of the properties and survival of historic features like porches and windows. The Direction affects only certain properties across the whole Conservation Area including semi-detached properties, detached, terraced and some modern properties which retain historic boundary walls. The rhythm of historic details on terraces or the symmetrical nature of semi-detached properties often makes the features on historic properties more prominent and raises their interest from the public highway. Attached are the maps showing the affected properties for the two areas (Appendix A - The Brampton and Appendix B - Watlands Park)
- 3.2 The Council is unable to pre-determine a development for which there is no application or even pre-application enquiry. An Article 4 Direction means only that planning

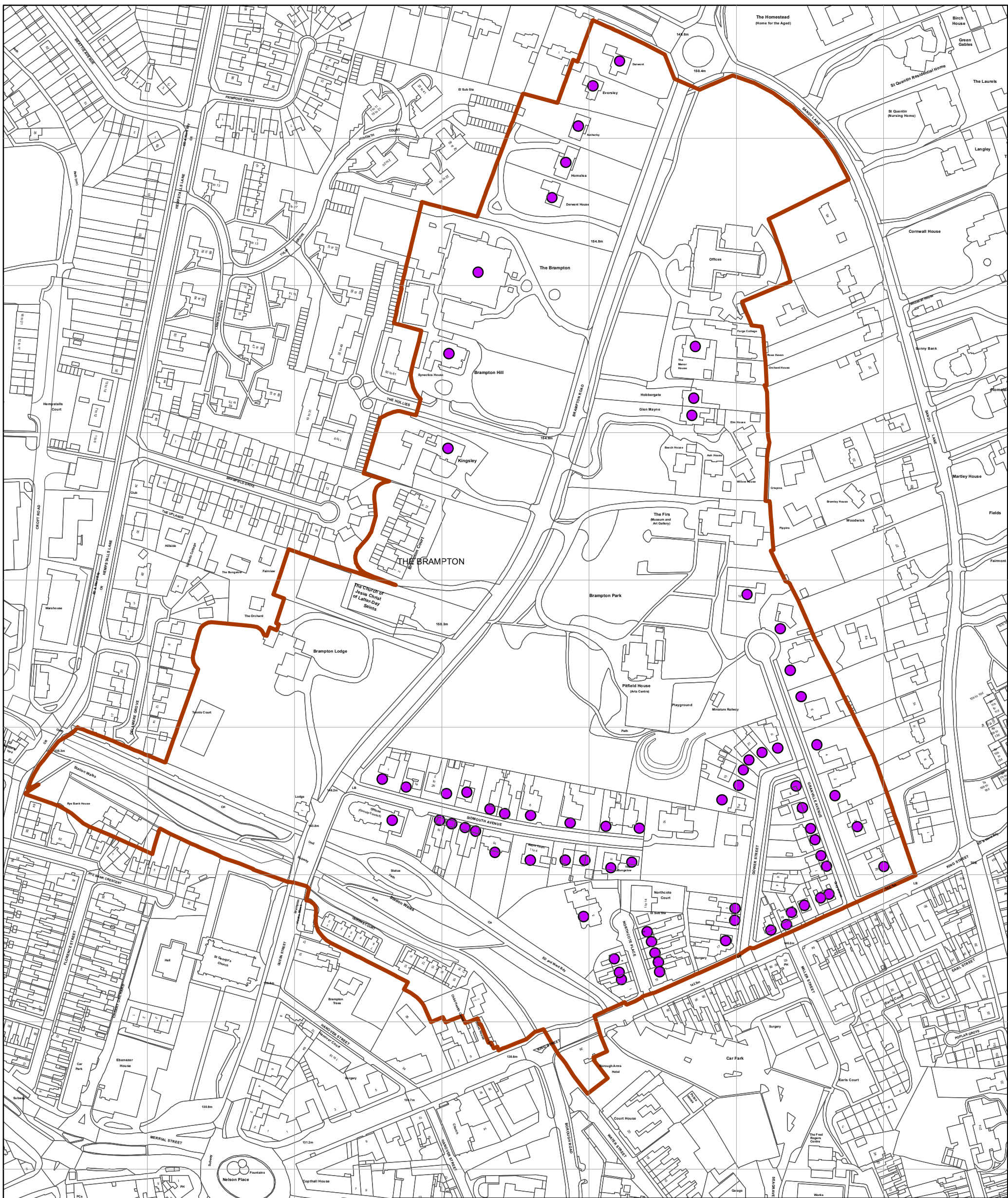
permission is required for a change to certain features on a house and each property will have its own individual circumstances. The Direction only affects the front elevation or an elevation which fronts the public highway (some properties may be on a corner).

- 3.3 To provide some clarity however, the Council has granted permission in other Conservation Areas where there is an Article 4 Direction in place for upvc sliding sash windows of a high quality, where the existing windows were originally sash windows. Every case is unique however and some property owners request permission to replace poor quality plastic windows (non-sliding sash), which were already altered prior to the Article 4 Direction, so such changes are often seen as an improvement. There is also a judgement to be made about what is a sympathetic window or door and there is a judgement to be made about what is considered to be a high quality replacement which matches the original window design. Some replacements are better than others. Again each application will be judged on its own merits and particular circumstances so the Council cannot give assurances on what will get permission when no application is before it. Other options are of course secondary glazing where the Council would have no involvement and owners could potentially access a grant to repair and improve the thermal efficiency of their historic windows on the front elevations.
- 3.4 If all historic features, including front boundary walls, historic windows, doors and porches are all removed and replaced with unsympathetic alternatives, the character and appearance of a Conservation Area is likely to be diminished. The local residents within their recently constituted Association have repeatedly requested that the Council recognise this special character and help to conserve the area using the powers available to it.
- 3.5 The Committee should be aware of an existing Article 4 Direction that has been made and confirmed (6<sup>th</sup> October 2016) in respect of 7 Park Avenue, within Watlands Park Conservation Area. The Residents Association requested that the Council consider designating a Conservation Area within this area and make an Article 4 Direction on this property to help retain the character of this particular plot which was deemed as vulnerable to inappropriate change. The Council agreed and served an "immediate" Article 4 Direction on the property. The reason for undertaking a Direction on an individual property in advance of the designation of the Conservation Area and the wider consideration of the Article 4 Direction was due to the perceived threat of redevelopment of the site following previous planning applications and the good survival of historic features of interest on the property. The process for designating a Conservation Area was underway (but not yet complete) when the Direction was made and a proposal for an Article 4 Direction on other properties was also being considered through the Conservation Area Appraisal and Management Plan process. It is important to be aware this property was not being singled out but that Direction was part of a wider process for the area to help retain its special character.
- 3.6 If the members are minded not to confirm the Direction for Watlands Park Conservation Area, they should also consider if the Article 4 Direction on 7 Park Avenue should be revoked. If not, this then specifically singles out one property within the Conservation Area as special enough to warrant such a Direction. There are in reality many other properties which retain their windows, boundary walls and other features which are just as worthy for protection as 7 Park Avenue.

#### **4.0 Conclusions**

- 4.1 That there have been no representations regarding the Article 4 Direction for the Brampton Conservation Area is noted, and in the absence of any new circumstances, confirmation of that Direction is recommended to the Committee
- 4.2 The designation of a Conservation Area for Watlands Park and consideration of a potential Article 4 Direction were raised during the review of the area, which began in conjunction with the Residents' Association in February last year and a joint consultation ran over June and July last year.
- 4.3 In reality the presence of an Article 4 Direction over the last 10 years in other Conservation Areas such as Basford and Betley has not caused problems for either the Council or homeowners and a solution is generally found through the application process. In other Conservation Areas, residents value the historic features their properties have managed to retain and they are often seen as a positive attribute when people are selling their property.
- 4.4 An Article 4 Direction only means that a particular development cannot be carried out under permitted development rights on an elevation fronting the public highway and therefore needs a planning application. This gives a Local Planning Authority the opportunity to consider the proposal in more detail. .
- 4.5 It is considered that the Direction, as set out in the previous report, is justified and will hopefully help to retain the special architectural details which contribute to the character of the area. Accordingly it is also recommended that the Committee now confirm the Watland Park Direction as well as that for the Brampton Conservation Area.

Background documents – Conservation Area Appraisals and Management Plans, Article 4 Directions, and representations received  
Report prepared 6<sup>th</sup> June 2017

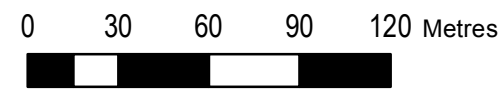


# Brampton Conservation Area Article 4 Direction March 2017

## Key

 Conservation Area boundary

 Buildings subject to Article 4 direction

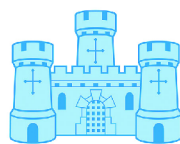


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Conservation Area Boundary

# Watlands Park Conservation Area Proposed Article 4 Direction April 2017

## Key

- Buildings subject to Proposed Article 4 Direction

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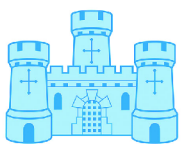
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