

# Public Document Pack

**Date of meeting** Tuesday, 24th April, 2018  
**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 5 - 10)  
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF MEADOW WAY, BALDWINS GATE. BELLWAY HOMES (WEST MIDLANDS) LTD. 17/01024/FUL** (Pages 11 - 34)
- 5 **APPLICATION FOR OTHER DEVELOPMENT - 5 SLINDON CLOSE, CHESTERTON. MR A CLAY. 18/00195/FUL** (Pages 35 - 40)
- 6 **APPLICATION FOR OTHER DEVELOPMENT - IMPERIAL WORKS, COALPIT HILL, TALKE. MR AL PROPERTY. 18/00066/FUL** (Pages 41 - 48)
- 7 **QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO** (Pages 49 - 54)
- 8 **APPEAL AND COSTS DECISION - FORMER SAVOY CINEMA/METROPOLIS, OFF THE MIDWAY, NEWCASTLE. 17/00174/FUL** (Pages 55 - 58)

9      **QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED**      (Pages 59 - 64)

10     **OPEN ENFORCEMENT CASES**      (Pages 65 - 66)

11     **DELEGATION BY COUNCIL OF ITS DECISION MAKING POWER TO CHESHIRE EAST IN RELATION TO FUTURE A500 WIDENING PLANNING APPLICATION**

Item to follow.

12     **URGENT BUSINESS**

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

13     **DISCLOSURE OF EXEMPT INFORMATION**

To resolve that the public be excluded from the meeting during consideration of the following item(s) because it is likely that there will be a disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A (as amended) of the Local Government Act 1972.

14     **CONFIDENTIAL ITEM - QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED**      (Pages 67 - 68)

**Members:**      Councillors Burgess, Fear, S Hambleton, Heesom, Northcott, Panter, Proctor (Chair), Reddish, Simpson, Spence (Vice-Chair), Sweeney, S Tagg, G 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.

**NOTE:** THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY FOLLOWING THE FIRE EXIT SIGNS. PLEASE **DO NOT** USE THE LIFTS.

**COUNCIL CHAMBER:** FIRE EXITS ARE AT THE REAR OF THE CHAMBER AT BOTH SIDES AND THIS IS THE SAME FOR OCCUPANTS OF THE PUBLIC GALLERY.

**COMMITTEE ROOMS:** EXIT VIA THE WAY YOU ARRIVED AT THE MEETING OR AT THE FAR END OF THE COUNCIL CHAMBER.

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**PLANNING COMMITTEE**

Tuesday, 27th March, 2018  
Time of Commencement: 6.30 pm

- Present:-** Councillor Bert Proctor – in the Chair
- Councillors Burgess, Fear, S Hambleton, Heesom, Holland, Panter, Reddish, Spence, Sweeney, S Tagg, G White, G Williams, J Williams and Wright
- Officers Becky Allen - Landscape Manager, Guy Benson, Geoff Durham - Member Training and Development Officer, Elaine Moulton, Trevor Vernon -Solicitor and Darren Walters
- Apologies Councillor(s) Northcott and Simpson

**1. APOLOGIES**

Apologies were received from Councillors' Simpson and Northcott

**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 27 February, 2018 be agreed as a correct record.

**4. APPLICATION FOR MAJOR DEVELOPMENT - LAND AT WATERMILLS ROAD, CHESTERTON. NSL LTD. 17/00977/FUL**

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

- (i) Time limit
- (ii) Approved plans
- (iii) Submission and approval of parking and turning areas for the storage of vehicles, recovery vehicles and staff,
- (iv) The cabins shall be removed from the site when they are no longer in use,
- (v) No external lighting unless submitted for approval,
- (vi) Provision of hibernacula within a standoff area, details of which are to be agreed
- (vii) Planting of streamside vegetation on the currently unvegetated watercourse
- (viii) Further Great Crested Newt study prior to, whichever is the sooner, vehicles being brought onto site or additional

hardsurfacing being laid

5. **APPLICATION FOR MAJOR DEVELOPMENT - UNITS 2-3 MARIES WAY, SILVERDALE,NEWCASTLE. FLEET OPERATIONS LTD. 18/0008/FUL**

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

- (i) Time limit
- (ii) Plans
- (iii) The protection of existing trees to BS5837:2012 during construction.
- (iv) Approval and implementation of a detailed landscaping scheme.
- (v) The implementation of approved parking and turning areas.
- (vi) Approval and implementation of cycle parking details.
- (vii) The approval and implementation of a Construction Management Statement.
- (viii) Site contamination.
- (ix) Construction and groundworks activities which have the potential to disturb burial services in the adjacent Silverdale Cemetery shall cease for the duration of the service.
- (x) Prior approval of lighting.
- (xi) Revised bin storage detail (to allow greater levels of accessibility).

6. **APPLICATION FOR MAJOR DEVELOPMENT - ETRURIA VALLEY, SHELTON BOULEVARD, STOKE-ON-TRENT. STOKE-ON-TRENT REGENERATION. SOTCC REF 62288/FUL (NULBC REF 348/253)**

**Resolved:** That Stoke on Trent City Council be advised that the Borough Council has no objections to the proposed development subject to;

- the City Council receiving no objections from the Highway Authority and/or Highways England in respect of any unacceptable impact the developments may have on the A53/A500 junction at Basford Bank.
- The proposed Etruria Valley Link Road being taken into consideration when addressing the highways impacts of the proposed development.
- Long distance views of the proposed building, across Etruria Valley, being addressed and consideration given to its design and use of dark, recessive colours.

7. **APPLICATION FOR MINOR DEVELOPMENT - 24 GREENOCK CLOSE NEWCASTLE. MR R TAYLOR. 17/01015/OUT**

**Resolved:** (A) That, subject to the applicant first entering into a Section 106 obligation by 20<sup>th</sup> April to secure a public open space contribution of £11,158 towards works to footpaths at Thistleberry Parkway Play area, approved subject to the undermentioned conditions:

- (i) Standard time limits

- (ii) Approval of reserved matters
- (iii) Arboricultural Impact Assessment
- (iv) Layout of site to include disposition of buildings and provision of parking and turning for 24, Greenock Close and the proposed dwellings within the site curtilage
- (v) Means of surface water drainage for all areas intended to remain in private ownership
- (vi) Surfacing materials for access, parking and turning areas
- (vii) Contaminated land
- (viii) Construction hours
- (ix) Materials
- (x) Boundary treatments

An advisory note regarding requirement to carefully position windows should also be attached .

- (B) Should the planning obligation as referred to at (A) not be secured within the above period, Head of Planning given delegated authority to refuse the application on the grounds that without such a matter being secured the development would fail to secure the provision of improvements to a play area or, if he considers it appropriate, to extend the period of time within which such an obligation can be secured
- (C) That any application for the approval of the reserved matters of the outline planning permission, or for full planning permission for the same development, be brought to the Planning Committee for decision

**8. APPLICATION FOR MINOR DEVELOPMENT - FORMER GE DIAMOND BUILDING, WEST AVENUE, KIDSGROVE. REVELAN GROUP. 18/00029/FUL**

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

- (i) Time limit
- (ii) Approved plans
- (iii) Prior approval of the external facing materials.
- (iv) Amended service area access
- (v) Provision of accesses, parking, servicing, and turning areas prior to the development being brought into use.
- (vi) Existing site access to be permanently closed and reinstated as footway
- (vii) Provision of weatherproof parking for a minimum of 9 cycles
- (viii) Construction Method Statement
- (ix) Prior approval of any new external lighting

**9. APPLICATION FOR MINOR DEVELOPMENT - LAND NORTH OF BRADWELL HOSPITAL, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 17/00515/DEEM4**

**Resolved:** That the Section 106 agreement referred to in the resolution of the Planning Committee of the 10<sup>th</sup> October 2017 secure a contribution of £198,558 (index linked), or such amount as reflects the eventual development, towards primary education places at either the Sun Primary Academy or Bursley Academy, along with the other policy compliant obligations referred to in the resolution of the 10<sup>th</sup> October 2017 Planning Committee.

10. **APPLICATION FOR OTHER DEVELOPMENT - NEW WOODHOUSE FARM, APEDALE ROAD, WOOD LANE. MR & MRS G PROCTOR. 18/00056/FUL**

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

- (i) Standard time limit
- (ii) Approved plans
- (iii) Materials as per approved plans and application form.

11. **APPLICATION FOR OTHER DEVELOPMENT - IMPERIAL WORKS, COALPIT HILL, TALKE. MR AL PROPERTY. 18/00066/FUL**

**Resolved:** That a decision on the application be deferred.

12. **APPEAL DECISION - BANK TOP, PINWOOD ROAD, ASHLEY HEATH. 17/00010/FUL**

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

13. **APPEAL & COSTS DECISIONS - 8 BARFORD ROAD, NEWCASTLE. 17/00483/FUL**

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

14. **KEELE CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN SUPPLEMENTARY PLANNING DOCUMENT**

- Resolved:**
- (i) That the draft Keele Conservation Area Appraisal and Management Plan Supplementary Planning Document and the publication of the attached Consultation Statement and the SPD for the required final period of representations agreed; and
  - (ii) That, subject to no representations being now received seeking significant changes to the Appraisal and Management Plan SPD, the Planning Committee commend the SPD to Cabinet for adoption

15. **TREE PRESERVATION ORDER - LAND AT THE OAKS, MINN BANK ASTON. TPO190**

**Resolved:** That Tree Preservation Order No.190 (2017), land at the Oaks, Minn Bank, Aston TF9 4JB confirmed as made and owners of the site to be informed accordingly.

16. **TREE PRESERVATION ORDER - PINASTRE, PINWOOD ROAD, ASHLEY HEATH. TPO 191**

**Resolved:** That Tree Preservation Order No.191 (2017) land at Pinastre, Pinewood Road, Ashley TF9 4PR confirmed as made and owners of the site to be informed accordingly

**17. DISCLOSURE OF EXEMPT INFORMATION**

**Resolved:-** That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A of the Local Government Act, 1972

**18. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDING GRANT) - 181 HOLLOWAY LANE, ASTON (REF: 17/18004/HBG) AND BRADWALL HOUSE, 16-18 KING STREET, NEWCASTLE (REF: 17/18005/HBG).**

**Resolved:** (i) That £5,000 for structural repair of the Listed cowhouse at 181 Holloway Lane, Aston be approved subject to the appropriate standard conditions and a specific condition relating to the repayment of the grant if the recipient disposes of the interest held in the property within 2 years of the payment of the final instalment of the grant.

(ii) That £5,000 for window reinstatement to the front elevation of the building at Bradwall House, 16-18 King Street, be approved subject to the appropriate standard conditions

**19. URGENT BUSINESS**

There was no Urgent Business.

**20. ENFORCEMENT MATTER**

**Resolved:** That the recommendations as set out in the report be accepted.

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

Meeting concluded at 7.30 pm

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**LAND OFF MEADOW WAY, BALDWIN'S GATE  
BELLWAY HOMES LTD (WEST MIDLANDS)**

**17/01024/FUL**

The application is for full planning permission for the demolition of existing buildings, the erection of 97 houses, access, parking and amenity space.

The application site lies outside the village envelope of Baldwin's Gate and within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map. The site area is approximately 4.62 hectares.

**The 13 week period for the determination of this application expires on the 21<sup>st</sup> March but the applicant has agreed to an extension of the statutory period to the 27<sup>th</sup> April.**

## **RECOMMENDATION**

**Refuse for the following reasons:**

- **Adverse impact upon the biodiversity and hydrology of Chorlton Moss Local Wildlife Site**
- **Absence of a secured planning obligation securing a financial contribution of £420,084 towards the provision of primary and secondary education places**
- **Absence of a secured planning obligation securing a financial contribution of £285,471 (£2,943 per dwelling) towards improvements to the open space and play facilities at Whitmore Village Hall**
- **Absence of a secured planning obligation securing 16% of the dwellings as affordable units and a financial contribution of a figure to be calculated towards off-site provision of the equivalent of 9% of the dwellings as affordable units**
- **Absence of a secured planning obligation securing a travel plan monitoring fee of £6,430**
- **Absence of a secured planning obligation securing a management plan for the restoration and long-term maintenance of the Chorlton Moss Local Wildlife Site**
- **Absence of a secured planning obligation securing a management agreement for the long-term maintenance of the open space on the site**

## **Reason for Recommendation**

The development would have an adverse impact upon the biodiversity and hydrology of Chorlton Moss Local Wildlife Site and the mitigation measures suggested by the applicant would not enable these impacts to be avoided or minimised to any significant extent. There are benefits in terms of the provision of housing and affordable housing but these carry limited weight given the above conclusion.

The proposed development would result in additional pressure on school places and public open space and in the absence of financial contributions such adverse impacts would not be appropriately mitigated against. Whilst that could be done via planning obligations, and the applicant has indicated a willingness to enter into such obligations, no Unilateral Undertaking has been presented to the local planning authority. A planning obligation is also required to secure affordable housing, a travel plan monitoring fee, a management plan for the restoration and long-term maintenance of the Chorlton Moss Local Wildlife Site and a management agreement for the long-term maintenance of the open space on the site in accordance with policy.

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

Additional information has been requested and provided where necessary to progress the determination of the application. It is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework (NPPF) and it is

considered that the applicant is unable to overcome the principal concerns in respect of this development.

### **Key Issues**

1.1 Planning permission was refused on 15<sup>th</sup> August 2017 for a very similar scheme for the erection of 99 houses, access, parking and amenity space (Ref. 16/01101/FUL). The reasons for refusal were as follows:

1. *The proposed development would have both direct and indirect impacts on the irreplaceable Chorlton Moss Local Wildlife Site. The location of the balancing pond in the Moss would result in the loss of part of the Local Wildlife Site and the development would have an adverse impact on the potential future restoration of the habitat to active bog. The development would thereby be contrary to saved Policy N3 of the Newcastle-under-Lyme Local Plan (NLP) 2011, Policy CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026 and the aims and objectives of the NPPF.*
2. *The adverse impact of the development upon the Chorlton Moss Local Wildlife Site significantly and demonstrably outweighs any benefits of the development when assessed against the policies of the NPPF taken as a whole and the proposal therefore represents an unsustainable development.*

1.2 Subsequent to the issuing of the decision notice a letter was issued to reflect the resolution of the 15<sup>th</sup> August Planning Committee that explicit reference should be made in the notice of decision to the development being contrary to paragraph 118 of the NPPF. An appeal has been lodged against the Council's decision and a Public Inquiry is due to be held in July of this year. In February 2018 the Planning Committee passed various resolutions with respect to the Planning Authority's position with respect to planning obligations, including that it should seek public open space contributions at a rate of £2,943 per dwelling, rather than the higher rate referred to by the Landscape Development Section. The Council has recently submitted its Statement of Case with respect to the appeal.

1.3 Full planning permission is now sought for the demolition of the existing buildings and the erection of 97 houses, access, parking and amenity space.

1.4 The application site, of approximately 4.62 hectares in extent, is within an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map, in the open countryside outside the village envelope of Baldwin's Gate.

1.5 In the previous application, part of the public open space comprising a balancing pond lay within the Chorlton Moss Local Wildlife Site (LWS). The principal amendment to the scheme is the relocation of the open space and the drainage attenuation basin to the west to outside the then boundary of the LWS. Following submission of this application, Staffordshire Wildlife Trust (SWT) has advised that the boundary of the LWS has been amended to include additional land which includes the relocated area of open space and some other parts of the development.

1.6 Since the consideration of the previous application, a draft revised NPPF has been published and is currently out for consultation. Whilst the draft revised NPPF is only a consultation document, it can be given some weight as it is indicative of the Government's direction of travel, and where there are differences (with the current NPPF) it is indicative that a policy is under review and the circumstances which have led to that review may need to be taken into account. Notwithstanding the representations received, this revised application raises no new material issues of impact on the landscape, on the loss of best and most versatile agricultural land, on highway safety, on residential amenity, open space provision, flood risk or affordable housing provision.

1.7 There is nothing in the draft revised NPPF on these matters to suggest that there is a basis for the Local Planning Authority to reconsider its position on these issues. Similarly noting the acceptance in August 2017 by the Local Planning Authority that the development is in a sustainable location (in terms of access to services and facilities), there is no substantive basis for coming to a different view on this point now. Therefore, given the previous reasons for refusal and the revisions now proposed, the issues for consideration in the determination of this application are as follows:

- Would there be adverse impact upon any nature conservation interests?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

## 2. Would there be adverse impact upon any nature conservation interests?

2.1 Part of the previous application site was within the Chorlton Moss Local Wildlife Site (LWS). As indicated above that application was refused for the following reason:-

*The proposed development would have both direct and indirect impacts on the irreplaceable Chorlton Moss Local Wildlife Site. The location of the balancing pond in the Moss would result in the loss of part of the Local Wildlife Site and the development would have an adverse impact on the potential future restoration of the habitat to active bog. The development would thereby be contrary to saved NLP Policy N3, Policy CSP4 of the CSS and the aims and objectives of the NPPF.*

In its Statement of case the LPA has also referred to conflict with saved NLP Policy N8.

2.2 In this revised scheme, the balancing pond has been relocated and the Applicant's Planning Statement states that revisions made to the location of the balancing pond would remove any direct impacts in relation to ecology and biodiversity on the Chorlton Moss LWS.

2.3 Since the submission of this current application, Staffordshire Wildlife Trust (SWT) has advised that at a meeting of the Trust's LWS Grading Committee on 25<sup>th</sup> January 2018, the botanical data provided by the applicant's Ecological Consultants in support of the previous application was considered, and it was agreed that the boundary of the Chorlton Moss LWS should be extended to incorporate the marshy grassland habitats surveyed and that whole management units (as defined by field boundaries) should be included where the majority of the unit met the criteria. Some 1.65ha of additional habitat, including the relocated area of open space, has been included within the LWS boundary.

2.4 Concerns have been expressed by the applicant regarding the procedure carried out by the Grading Committee in extending the boundary of the LWS. This is a separate matter that is not relevant to the determination of this planning application. What is relevant is the ecological quality of the land, based on scientific grounds, and whether the proposed development would have any adverse impact on that quality. This will be considered further below.

2.5 The existing NPPF states, at para 109, that the planning system should contribute to and enhance the natural and local environment by, inter alia:-

- Protecting and enhancing valued landscapes, geological conservation interests and soils;
- Recognising the wider benefits of ecosystem services;
- Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

2.6 Paragraph 118 of the NPPF goes on to state that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles including the following:-

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

2.7 The draft revised NPPF does not make any notable changes in this regard. The relevant paragraphs in the draft are 168 and 173. The latter refers to the refusal of proposals resulting in the loss or deterioration of irreplaceable habitats, unless there are “wholly exceptional reasons” and a suitable mitigation strategy exists. In a footnote an example of wholly exceptional reasons is given of infrastructure projects where the public benefit would clearly outweigh the loss of habitat.

2.8 Saved NLP Policy N3 states that the consideration of applications for planning permission will take into account the potential effects of development proposals upon wildlife and geological features. In all cases where development or land use change is permitted, development proposals will be expected to avoid or minimise any adverse effects and, where appropriate, to seek to enhance the natural heritage of the Borough, by the following measures:-

- i. Habitats/features of nature conservation or geological value will be retained in situ and protected from adverse impact.
- ii. Where permitted by relevant legislation and/or regulations, flora and fauna of high nature conservation importance will be translocated or relocated to a suitable location(s) in cases where such species cannot be adequately safeguarded in situ. (Where this takes place, the developer must ensure that the translocation of the flora and fauna is based on qualified advice and undertaken prior to the commencement of development, and that provisions are made for the satisfactory establishment and maintenance of the translocated species at the new site).
- iii. Replacement habitats/features will be provided on at least an equivalent scale where the Council agrees that the loss of wildlife habitats or geological features is unavoidable.

2.9 Saved NLP Policy N8 states that the Council will resist development that may harm, directly or indirectly, an ancient woodland site, unimproved lowland grassland or area of lowland heathland or peatland, unless the applicant can demonstrate that the need for the development clearly outweighs the need to safeguard the habitat. Where development affecting such habitats can be approved, appropriate measures will be required to minimise damage, to provide for appropriate habitat restoration and/or re-creation to compensate for any loss, and to assist where possible towards meeting the targets for habitat and species increase set out in the Staffordshire Biodiversity Action Plan.

2.10 CSS Policy CSP4 states that the quality and quantity of the plan area’s natural assets will be protected, maintained and enhanced through a number of measures including the following:-

- Working with relevant partners to enhance the plan area’s natural habitats and biodiversity to achieve the outcomes and targets set out UK Biodiversity Action Plan, the Staffordshire Biodiversity Action Plan and the Staffordshire Geodiversity Action Plan;
- Working with relevant partners to achieve significant improvements to the condition of the plan area’s internationally designated Ramsar sites, nationally designated Sites of Special Scientific Interest (SSSI), locally designated Sites of Biological Importance (SBI) and Local Wildlife Sites, Regionally Important Geological/Geomorphological Sites (RIGS) and Local Nature Reserves;
- Ensuring that the location, scale and nature of all development planned and delivered through the CSS avoids and mitigates adverse impacts, and wherever possible enhances, the plan area’s distinctive natural assets, landscape character, waterways, network of urban green corridors and priority species and habitats identified in the UK Biodiversity Action Plan and the Staffordshire Biodiversity Action Plan.

2.11 Chorlton Moss LWS is one of only four raised bogs in Staffordshire. It is a non-statutory designated site which is designated on account of the presence of raised peat bog. The Moss is considered to comprise “degraded raised bog capable of restoration”. It has been in a state of decline over the past few decades, in part due to active land drainage, but largely due to the colonisation of the surface of the Moss by trees and shrubs. It is, however, considered to be entirely ‘restorable’ and restoration would be achieved partly by blocking ditches to fully reinstate sub-surface groundwater input to the base of the Moss, and partly through the removal of trees and shrubs.

2.12 SWT objects to the proposal on a number of grounds but in summary, they express concerns regarding the impacts to a LWS with insufficient mitigation, indirect impacts to an irreplaceable

habitat, net loss of watercourses and native hedgerows and overall net loss of biodiversity. They state that the application does not comply with the NPPF as it would cause a net loss of biodiversity due to the loss of diverse habitats within the site and would also result in further deterioration of an irreplaceable habitat.

2.13 The applicant's Ecologist (Ecology Solutions) has responded with the following points:

- This is a site with a retained peat substrate and elements of wetland habitat, but with extensive well developed tree cover, a drainage system which acts to further deplete the Moss of water and an overall botanical assemblage which demonstrates a significant movement away from being a high value nature conservation resource.
- The revised proposals give rise to a net benefit to the LWS. The overall package of on-site and off-site mitigation and enhancement measures give rise to a net benefit for biodiversity. There is no statutory or other relevant mechanism which can secure any restorative measures for the Moss and it is maintained that this should be an important consideration in determining this application.
- The report by Waterco Consultants demonstrates that the development proposals would not act as a barrier to water level and other restoration measures. The proposals deliver some secured benefits to the LWS and they do not prevent further restorative measures being brought forward within the LWS in the future.
- Whilst there are direct impacts on peripheral habitats as a result of the housing, it cannot be said that future restoration of active bog within the LWS is prevented (the proposals deliver some restorative measures) and certainly, restoration is no more hampered than at the current time.

2.14 The report by Waterco Consultants on behalf of the applicant is a new report submitted in support of the application relating to hydrology matters and it states as follows:

- Chorlton Moss has suffered a continuous loss of water for at least 40 years and in consequence, there is no functional area of raised bog remaining in Chorlton Moss and water levels are so low that even the lowerparts of the bog are undergoing conversion to dry land.
- In the event that a plan is put into action to raise water levels, it is likely that it will be many decades before functional raised bog reappears. The area of proposed development within the Functioning Ecological Unit (FEU) will not become raised bog as it is marginal. The FEU boundary may not be coincident with the functional hydrological boundary at Chorlton Moss but the functional hydrological boundary controls the presence or absence of raised bog and lowland wetland.
- Pre-development, the present site's evapotranspiration is likely to be higher than post-development which will allow more water to enter the Moss when the site is developed.
- The excavation of the proposed flood mitigation basin is unlikely to affect the Moss. If the basis is lined it may act as a flow obstruction but water flow will make its way round and if the basis is unlined, water will enter and fill to the equilibrium water table level.
- Any excavation of peat can be used for an ecologically useful material for ditch blocking.
- In the current scenario, unless water levels can be raised, Chorlton Moss will eventually be delisted as an important habitat. The proposed development can help raise these water levels by increasing runoff from increased post-development impermeability and decreased post-development evapotranspiration. These increased sources of water can be used to "rewet" the Moss initially with further work enabling a return to full health.
- The increase in hardstanding area consequent upon the development will result in an increase in surface water runoff rates and volumes. In order to ensure that the proposed development will not increase flood risk elsewhere, surface water discharge from the site will be controlled and sustainable drainage systems used. However, a holistic approach could be considered whereby surface water discharge from the site is transferred to the Chorlton Moss to facilitate its rewetting.
- In many cases developments seek to minimise runoff volumes from the site to reduce the size of retention ponds/detention basins. Minimising runoff on new developments requires permeable paving, green spaces and roof drainage infiltrated into the ground but in this case, using impermeable paving and connecting roof drainage to the surface water drainage

system in the development would be advantageous in maximising the rewetting of Chorlton Moss.

- The Surface Water Attenuation Basin can be redesigned for dual use – to reduce nutrient levels as a pre-treatment ‘works’ for water destined to rewet Chorlton Moss and as a Surface Water Attenuation basin. The proposed retention pond would also fall within the functional hydrological boundary and as such, would be a positive integral part of the hydrological/nutrient control in rewetting the Moss.
- The proposed culverted ditch from the small pond in the west field can be diverted around and along the site southern boundary thus increasing ditch length but it should be dammed with a weir at its far end to reduce water flow and to enhance the rewetting of Chorlton Moss.
- In summary, it is concluded that the development can have a positive impact on the longevity and future health of the raised bog.

2.15 SWT has responded to the Report stating that while Waterco have experience in managing water in various industrial and practical situations, they may not be wetland specialists with knowledge of ecology or peatland systems. SWT state that it is impossible to guarantee that changes made as a result of development will not have a negative effect and therefore it is argued that the precautionary principle must be used and development within the extent of hydrological influence avoided. In response to the Hydrology Report, the LLFA suggests that whilst surface water from the site could be utilised to help to re-wet the Moss area; in the undeveloped state, a greater proportion of the rainfall would naturally infiltrate to re-charge the groundwater and other measures such as ditch blocking could be achieved without development. They do not consider therefore that the proposed development is integral to potential restoration plans.

2.16 The Council has now sought advice on this matter from an independent Ecologist who has assessed the impact of the proposal upon the ecology and hydrological function of Chorlton Moss and the surrounding area. The Council’s advisor states as follows:

- The proposed peat stabilisation, in creating a near-impermeable ‘monolith’ of a substance which might be described as ‘peatcrete’ would effectively prevent future effective restoration of active bog within the LWS due to fundamental changes to groundwater movement within the site.
- The proposed attenuation basin lies directly over an area of mire, which has been incorporated within the LWS in the recent boundary revision. This would result in direct habitat loss, with surrounding areas of mire being effectively drained.
- Areas would be lost to housing and Public Open Space (POS) under the revised scheme. POS is not considered to be an appropriate land use for wetland habitat as the peat soils are too fragile and readily compressed, and public use would lead to compaction, surface damage and ultimately loss of wetland flora, which is not trampling-tolerant. It is further considered that excavation of the attenuation basin would lead to surface vegetation damage and compaction of the surrounding mire. If the basin is unlined, it would set up a cone of depression for several metres beyond the margin of the basin; if lined, it would sever sub-surface flow to the mire to the east, and also to the Moss. It is not considered that the current layout proposals are capable of maintaining wetland communities in situ within the boundary of the development site.
- A small area of grassland would become amenity space and although Ecology Solutions suggest that such habitats might be enhanced by reseeded, this area is very unlikely to be capable of supporting biodiversity interest of a similar level to that of the lost vegetation, even were it possible to replicate the hydrology, particularly when used as an amenity space. The import of seed which is not ‘native, locally sourced’ into the local area would also potentially have adverse impacts upon the retained undeveloped portions of the LWS, through loss or dilution of the genetic distinctiveness of the local flora. The translocation of species rich wetland turfs has also been referred to by the applicant as a possible alternative to seeding however the wetland vegetation growing in the most biodiverse and ecologically valuable parts of the development site has developed in the locations it is in because of the localised upwelling of groundwater in these locations. Were the wetland turves to be cut and relocated elsewhere within the site, the wetland species within them would die, as the new locations do not have the correct and very specific hydrology.

- Ecology Solutions state that there is scope to increase the ecological value of grassland habitats within the application site. They highlight that public open space and the drainage attenuation feature have been located to the west of the LWS, retaining wet meadow grassland in an area highlighted by SWT as being of particular concern in terms of losses to built form (under the previous proposals). However, the Council's advisor states that the 'retained' habitats would be substantially modified through combination of direct loss to the attenuation basin, damage and compaction of peat-based wetland adjacent to the basin during construction, local drawdown due to a possible cone of depression arising around the basin and interruption of the groundwater movement through these habitats due to cement stabilisation. It is not considered that the proposals for plug planting and seeding would be in anyway able to offset or mitigate for the habitat loss.
- The proposed management plan for Chorlton Moss LWS would only enable restoration of the extreme northwest corner of the Moss, where it is proposed to raise local water levels through blocking ditches, and removal of tree cover to restore acid grassland over an area of approximately 1.1ha. It is noted that this area is in that part of the Moss most likely to suffer direct severance of subsurface flows as a consequence of the excavation of the SUDS and thus the proposed management enhancement measures would be unlikely to lead to the recreation or restoration of bog communities in this location. In the context of loss of peat-based wetland habitats, management of this small area of what is likely to be acid grassland does not adequately mitigate for the wetland habitat loss and cannot be seen as an enhancement.
- Peat plays an important role in sequestering carbon, so delivering a considerable environmental benefit in terms of ecosystems services. It holds carbon which is gathered from the atmosphere by living plants as they photosynthesise and grow. When these plants die their semi-decayed remains are locked away in the peat under anaerobic waterlogged conditions, limiting further decay and the release of carbon. Once stored in the waterlogged zone as peat, the carbon is locked up in perpetuity provided the peat remains wet and undisturbed.
- Even partial drainage of the site such as might result from disruption of groundwater movement and improved drainage of the local area by culverting, would be expected to result in the loss of the carbon storage resource represented by the peats and release of an unquantified amount of carbon dioxide to the atmosphere. The proposed peat stabilisation, which involves deep mixing of peat, and treatment with a strong alkali in the form of Portland cement, would result in the release of a very significant quantity of sequestered carbon.
- Peat soils help prevent flooding by absorbing and holding both groundwater and rainwater like a sponge, gradually releasing it to the surrounding environment as well as filtering and purifying water. Peat can absorb large quantities of nutrient and other pollutants, although peat soils can, under certain conditions, release these chemicals back into the surrounding water.
- The peat deposits local to Chorlton Moss will have been laid down over many thousands of years, and likely date back to just after the last Ice Age. The peat deposits underlying the proposed development site have been conservatively dated to between 2,300 and 4,600 years old, equating to the late Neolithic or early Bronze Age. The peat forms a record of local conditions, in particular by preserving pollen which can provide a historical record of successive changes to vegetation in the area. In addition to the palynological (pollen) resource, undrained peat will also preserve historic artefacts, which would be damaged or destroyed through rapid decomposition where the peat is drained or water levels reduced or modified.
- The proposals for development require peat stabilisation to ensure that ground conditions are sufficiently stable to support buildings. This would involve deep-mixing of peats and combining shallow peat deposits with the underlying sand and gravel as well as culverting of watercourses. All peat-containing areas would then be treated with a binder, typically Portland cement, in order to create a stable surface for building. The combination of the physical mixing and treatment with cement, which would substantially modify the soil chemistry, would effectively destroy any palynological (pollen) resource or buried heritage.

2.17 In summary, the Council's advisor considers that the proposed development would give rise to the following unacceptable impacts upon the local ecology and hydrology:

- Severance and diversion of subsurface and groundwater flows to the Moss as a consequence of peat stabilisation)
- Short-term changes to water chemistry in the peats as a consequence of peat stabilisation
- Localised changes to the groundwater regime within the LWS and LWS extensions as a consequence of proximity to the attenuation basin due to a possible cone of depression and severance of west-east groundwater movement to the northern portion of the Moss
- Localised changes to the water regime within the LWS and LWS extensions and adjacent meadow/mire communities of high biodiversity value (where these remain undeveloped) as a consequence of culverting of local watercourses
- Local water chemistry and water quality changes as a consequence of built development (eutrophication and likely increased alkalinity) – gives rise to potential for downstream impacts as well as upon the LWS)
- Drying/accelerated drainage of peat soils on both the LWS and LWS extensions and surrounding area as a consequence of peat stabilisation and reduced water availability, with commensurate humification (decomposition) of peat, nutrient release and modification to or loss of wetland communities
- Trampling damage and nutrient enrichment to those areas of mire/meadow both within and outside the revised LWS boundary and not directly under the footprint of the attenuation basin and built development (i.e. areas retained as amenity space)
- Direct loss of those areas of mire/meadow within the revised LWS boundary and directly under the footprint of the attenuation basin and built development
- Loss of any future potential to restore the Moss.

In addition, the proposals would give rise to unacceptable impacts in terms of:

- Direct mechanical damage leading to loss of any buried preserved heritage and loss of a preserved palynological resource dating from between 2,300 and 4,600 years old
- Release of sequestered Carbon dioxide

2.18 Having considered the submissions of both the applicant and SWT and having regard to the views of the Council's independent Ecological Consultant, your Officer concludes that the proposed development would have an adverse impact upon the biodiversity and hydrology of Chorlton Moss LWS and furthermore that the mitigation measures suggested by the applicant would not enable these impacts to be avoided or minimised to any significant extent. The area involved is bigger, there is more information on the quality of the area and the hydrological impacts of the 'peatcrete', and appropriate account is taken of peatland as an irreplaceable habitat. The Council also now has expert advice on the limitations of the proposed mitigation works. The proposal would therefore be contrary to saved policies N3 and N8, and CSS Policy CSP4 and the aims and objectives of the current NPPF.

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

3.1 Paragraph 49 of the current 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).

3.2 The Council is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore is set out in paragraph 14 of the current NPPF which sets out that there is a presumption in favour of sustainable development, and for decision taking this means, *unless material considerations indicate otherwise, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.*

3.3 When 16/01101/FUL was previously assessed your officers took the view that given the examples of such specific policies (in a footnote (9) to paragraph 14) related to area specific locations, it did not



appear to them that the footnote applied in this case. However upon reflection it is acknowledged that paragraphs 109 and 118 of the current NPPF are very much specific policies which indicate development should be restricted (and thus they do fall within the ambit of the footnote). It follows that the 'tilted balance' within paragraph 14 is not engaged in this instance. This is important because it means that it is not necessary to demonstrate in this case that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

3.4 It is relevant to note in this context that the draft revised NPPF states at its paragraph 11 (the equivalent of paragraph 14 in the current NPPF) that there is a presumption in favour of sustainable development and for decision taking this means approving development proposals unless, inter alia, *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed*,. Footnote 7 to that paragraph states that the policies referred to are those in the Framework relating to specific sites including irreplaceable habitats. In this case, the Chorlton Moss peatlands are irreplaceable habitats. Although the revised NPPF is just a draft at this stage, that the Government has signalled its wish to move from a list of examples of policies (as in the current NPPF) to a specific list of such policies, and one that includes policies on irreplaceable habitats) is noteworthy, and indicative of a clear direction of its position.

3.5 It is acknowledged that the proposal would make a sizeable contribution towards addressing the significant undersupply of housing in the Borough and bring about economic and social benefits associated with its construction and occupation and the provision of affordable housing. However, notwithstanding these benefits, the development is contrary to the provisions of the development plan and the NPPF indicates that permission ought to be refused and there are no other material considerations that indicate that permission ought to be granted.

## APPENDIX

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

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

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP6	Rural Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

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 N8	Protection of Key Habitats
Policy N17	Landscape Character – General Considerations
Policy N21	Areas of Landscape Restoration
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

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

[National Planning Policy](#)

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

[Draft revised National Planning Policy Framework \(March 2018\)](#)

[Planning Practice Guidance](#)

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

[Supplementary Planning Guidance/Documents](#)

[Whitmore Village Design Statement SPG \(2002\)](#)

[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 \(2010\)](#)

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

[Waste Management and Recycling Planning Practice Guidance Note \(2011\)](#)

[Newcastle-under-Lyme Open Space Strategy \(March 2017\)](#)

### Relevant Planning History

16/01098/DEM	Prior notification of proposed demolition of two-storey detached house Approved
16/01101/FUL	Demolition of existing buildings, erection of 97 houses and 2 bungalows, access, parking and amenity space Refused and appeal pending. The following links lead to the reports that were submitted to the August 2017 Planning Committee  <a href="http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00240818.pdf">http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00240818.pdf</a>  <a href="http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00241087.pdf">http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00241087.pdf</a>  <a href="http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00241177.pdf">http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00241177.pdf</a>

### Views of Consultees

The **Highway Authority** has no objections subject to conditions requiring the submission and approval of a Construction Environmental Management Plan, surfacing of driveways in a bound material and sustainably drained, and no occupation of the buildings until a vehicular entrance on Meadow Way has been constructed. A travel plan monitoring sum should be secured via a legal agreement.

The **Environmental Health Division** has no objections subject to conditions regarding construction environmental management plan, mud on roads, internal noise levels and contaminated land.

Staffordshire County Council as the **Rights of Way Authority** has advised that there is a public footpath which runs adjacent to the site and any planning permission given does not give the developer the right to divert, extinguish or obstruct any part of the public path. It is queried whether the informal links onto the public right of way would be formally adopted by the County Council and whether the developer will be required to improve the public right of way.

The **Waste Management Section** states that the layout contains a number of locations where issues are likely to arise which will cause problems for occupiers. There are 7 locations where residents will need to bring their containers out for collection and return them to their property boundary between collections. This usually results in containers being left at the collection point causing neighbour disputes and visual blight. Such situations can be eliminated or reduced by creating loops which collection vehicles can drive around.

The **Landscape Development Section** has no objections subject to conditions requiring tree protection measures, full schedule of tree works and submission of landscaping proposals to include pathways, connectivity between two areas of open space within the development, and tree planting along the southern boundary. A contribution of £5,579 per dwelling is requested for improvements to the open space and play facilities at Whitmore Village Hall.

The **Education Authority** states that the development falls within the catchments of Baldwin's Gate CE (VC) Primary School and Madeley High School. The development could add 20 primary-aged pupils and 12 high school aged pupils. All schools are projected to be full for the foreseeable future and therefore a contribution is sought towards primary and secondary school provision. A contribution for 20 primary school places (20 x £11,031 = £220,620) and 12 high school places (12 x £16,622 = £199,464) is sought giving a total request of £420,084.

The **Crime Prevention Design Advisor** states that crime prevention has featured significantly as part of design considerations. The northern boundary where rear gardens will back onto the existing footpath is worthy of reconsideration. It would be better if the section of footpath behind plots 17-34 was re-routed through the development and incorporated into the rear gardens. If this is not possible, the garden boundaries should be reinforced externally with defensive planting.

Staffordshire County Council as **Minerals and Waste Planning Authority** states that the site lies within a Mineral Safeguarding Area for superficial sand and gravel as defined in the new Minerals Local Plan. The proximity of the development to the existing settlement means that it is unlikely that any underlying minerals could be worked in an environmentally acceptable manner in the foreseeable future. Therefore, no objection is raised.

**Network Rail** states that the proposal has the potential to impact upon Network Rail land and infrastructure via the surface water and foul water drainage proposals and therefore the developer will need to confirm matters relating to surface runoff and foul sewage to Network Rail. If a sustainable drainage and flooding system is to be included then the issue and responsibility of flooding and water saturation should not be passed onto Network Rail and its land. Reference is also made to Network Rail's right of access over land at the end of Fairgreen Road.

The **Lead Local Flood Authority (LLFA)** has no objections subject to conditions requiring the submission of a detailed surface water drainage scheme, development to be carried out in accordance with the Flood Risk Assessment and development to be carried out in accordance with the recommendations of the Site Investigation report. It is stated that the main difference in the Drainage Strategy is the change in the location of the attenuation pond and the change from an online to an offline system. Whilst the change in location may be beneficial in terms of impacts on Chorlton Moss, an offline pond would have little water quality treatment value for the majority of rainfall events. If it could be made online it would provide improved water quality treatment and a greater opportunity to maximise the ecological value of this feature. It is also requested that permeable paving for all private parking be shown or noted on the drainage strategy drawing to provide adequate water quality treatment.

In response to a further consultation on the Waterco Consultants' Hydrology Report submitted on behalf of the applicant, the LLFA states that their primary concern is the flood risk and sustainable drainage system associated with the new development and that these will not have a detrimental impact on environmental receptors. The report does not contain sufficiently detailed proposals and plans to enable comment specifically on any flood risk implications. However, it is suggested that whilst surface water from the site could be utilised to help to re-wet the Moss area, in the undeveloped state, a greater proportion of the rainfall would naturally infiltrate to re-charge the groundwater and other measures such as ditch blocking could be achieved without development. It is not considered therefore that the proposed development is integral to potential restoration plans.

**Staffordshire County Council Archaeology** state that the application is supported by an archaeological desk-based assessment (DBA) which concludes that the archaeological potential for the site is 'negligible' for prehistoric, Roman and early medieval remains and 'low' for medieval to post medieval remains due in part to its marginal location and waterlogged ground conditions. The DBA notes that peat deposits overlie bedrock geology to the south of the site which is located adjacent to the Chorlton Moss Site of Biological Interest. A programme of archaeological mitigation should be undertaken to take account of the palaeoenvironmental potential of the site to comprise a deposit model for the site and a watching brief on peat removal. This should be secured via a condition.

**Severn Trent Water (STW)** has no objections subject to a condition stating that no dwelling should be occupied until 1<sup>st</sup> May 2019 or until works to improve local sewerage facilities have been completed.

**United Utilities** state that the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

**Natural England** has no comments to make but draws the Council's attention to Natural England funded research and feasibility appraisal work in respect of the management and restoration of key wetland features within the Shropshire, Cheshire & Staffordshire Plain National Character Area (NCA). This work presented a 'Wetland Vision' for the area comprising reports on the Meres and Mosses in the NCA.

**Staffordshire Wildlife Trust (SWT)** refers to its comments of 13<sup>th</sup> February 2017 and 24<sup>th</sup> May 2017 on the previous application (Ref. 16/01101/FUL) which remain relevant to this application. A summary of relevant local and national policy was provided along with the following comments:

- The site is mostly within the Meres and Mosses Ecosystem Action Plan (EAP) area and on the edge of the Wooded Quarter EAP area.
- The area around Chorlton Moss including the application site is mapped as an opportunity area for Meres and Mosses in terms of potential to restore and enhance wetland habitats.
- Chorlton Moss Local Wildlife Site (LWS) is directly impacted by the proposals with habitat to be lost to a balancing pond and gardens along the eastern edge appearing to utilise a narrow strip of the LWS. This would not enhance the moss as it is not part of the recommended restoration management listed in the restoration site dossier produced in 2008.
- Chorlton Moss was last checked in 2006 and the data on the site's flora, condition and boundary are therefore out-of-date and a full resurvey and assessment is required to provide an accurate baseline for decision making.
- Although the tree cover on the moss is thought to be causing it to dry out, anecdotal evidence from residents suggests that water levels have been rising over the last 20-30 years as surface water has appeared more in the surrounding fields and marshy vegetation has expanded. In order to determine the current extent of the LWS it should be assessed. The marshy grassland habitat on the site has potential to be of LWS quality.
- As one of only two raised bogs in Staffordshire, the moss is part of the wider network of Meres and Mosses, unique features of this area of the Midlands.
- A plan is submitted showing the Functioning Ecological Unit (FEU) for the moss.
- Objection is raised to any development within, or indirectly affecting the FEU, and a suitable buffer of complimentary habitat should be retained beyond the FEU boundary.
- Raised bogs are irreplaceable habitats, by virtue of the unique geological and hydrological conditions needed for their formation. Some diverse grasslands may also be irreplaceable if they are not able to be recreated in a human lifetime. The proposals would result in the loss or deterioration of part of the raised bog habitat although in poor management condition, currently could be restored. As well as proposing a balancing pool within the bog habitat itself, the development would alter hydrology in the area and destroy adjacent marshy grassland which forms a buffer of complimentary habitat around the moss. Removing or changing semi-natural habitats around the core wetland area would reduce its ability to support the species it contains at present. The proposed habitat compensation within the development design falls far short of that required to replace the wet areas that would be lost and the need for and benefits of the development have not been shown to clearly outweigh this loss.
- The marshy grassland would qualify as Floodplain grazing marsh and the lowland raised bog within Chorlton Moss is a Habitat of Principal Importance (HPI). Such habitats should be protected, enhanced, expanded and/or replaced if the required gains are to be met nationally. The proposals would result in the loss of priority habitats and this is not adequately mitigated by landscaping proposals.
- The hedgerows and stream on the site all act as corridors for a range of wildlife and the wet grassland along with the moss itself is a 'stepping stone' site for wetland wildlife within a more intensively farmed landscape. The proposals do not preserve or strengthen ecological links.
- Given the type of buildings, the proximity of waterbodies and woodland and the many bat species recorded, the likelihood of bats roosting in the buildings is higher than reported and further inspections and surveys are required.
- Activity surveys recorded six bat species which is unusually high for a development site indicating that the habitat on and around the site is of good quality for bats. The development would impact on the favourability of the area for bats, changing the habitat and introducing more artificial light and disturbance.
- It is likely that common amphibians will be present in long grass on the site and so precautionary site clearance methods would be required as best practice.
- Due to the loss of habitat proposed, a breeding bird survey should be carried out.
- Any development within a floodplain is opposed unless impacts to the floodplain function are fully compensated and enhanced. This would not be the case on this site. Culverting and loss of sections of the small watercourse is also not acceptable.
- It appears that the water table in the area has been changing and the reasons for this should be investigated. Adequate information from the relevant agencies and bodies should be sought to understand the hydrological issues further.
- In summary, Staffordshire Wildlife Trust objects due to impacts to the Chorlton Moss Local Wildlife Site, irreplaceable habitats, priority habitats and species and a lack of up-to-date and

accurate information on the Local Wildlife Site's condition and extent as well as a number of species potentially affected.

The following additional comments are now made:

- The application does not comply with the NPPF as it would cause a net loss of biodiversity due to the loss of diverse habitats within the site and would also result in further deterioration of an irreplaceable habitat.
- In the Newcastle-under-Lyme Biodiversity Opportunity Mapping Report (March 2014) Chorlton Moss is identified as one of the Meres and Mosses opportunity zones. The primary objective for this habitat type is maintenance, restoration and expansion of wetland complexes, with particular emphasis on the mosses resources.
- The current proposal threatens the current and future integrity of Chorlton Moss by impinging on the Functioning Ecological Unit (FEU) and undermining any future restoration of water levels. It would destroy part of the wetland complex beyond the lowland raised bog, reduce connectivity and would not achieve restoration and expansion of the wetland complex. It would not contribute to the target to restore biodiversity interest at Chorlton Moss, ensure more favourable conditions or improve resilience to environmental change.
- At the Local Wildlife Sites Grading Committee meeting on 25<sup>th</sup> January, the data provided by the applicant's Ecological Consultants on the habitats within the application site was considered, and it was agreed that the boundary of the Chorlton Moss LWS should be extended to incorporate the marshy grassland habitats surveyed and that whole management units (field boundaries) should be included where the majority of the area met the criteria.
- The majority of the grassland habitats within the application site boundary will be lost or in some way disrupted. Figures as to the areas to be retained, lost and created are requested. Around 1.55ha of the LWS would be lost including around 0.58ha of wet grassland and it would appear that around 0.36ha of new wet grassland is to be created. The created areas would be smaller in extent, take some time to establish and would experience much greater disturbance so it is doubtful that they would attain the same value or functionality as the current habitat. This is not sufficient to compensate for the wet grassland lost or the overall loss of grassland habitat from the whole application site.
- The proposed SuDS basin is located within the revised boundary of the LWS and would impact existing important wet grassland habitat. SuDS should not be located in already diverse habitat, but seek to enhance poor habitat. Excavations within the FEU and so close to the moss would risk impacting the local hydrology and water flow to the moss and the basin would be within an area at risk of pluvial flooding.
- The FEU of the lowland raised bog is the basin within which an active peat-forming bog habitat and associated fringing wetland habitats could be expected to be restored if appropriate water levels and management were to be put in place. The wider peat deposit covers a much larger area, including under much of Baldwin's Gate.
- As well as being an Annex 1 habitat, the lowland raised bog is an irreplaceable habitat. The proposals still threaten this habitat by impinging on the FEU, removing associated wetland habitats, potentially altering the surrounding hydrology by treating the peat layer and by changing surface water flow patterns and storage.
- Objection is raised to any development within or indirectly affecting the FEU, and that a suitable buffer of complementary habitat is retained beyond the FEU boundary.
- Ecology Solutions are incorrect in stating that the current likelihood of restoration must be considered. This is irrelevant to the site's value and does not need to be considered in decision making. Whether restoration may or may not happen in the next ten years or next 100 years, is not predictable in the long-term and is not a factor in the valuation of the resource. What is certain, is that if damaging development is allowed within sensitive areas, the future prospects of restoration will be jeopardised, probably irreversibly.
- The proposed management of part of the moss to restore acid grassland would be beneficial but will not restore active peat bog as water levels would need to be raised across the area. It is unlikely that ditch blocking in this area would re-wet the area and as the location of development would impact the moss's FEU and seriously hamper any future restoration of water levels, the proposed restoration work would not mitigate for the overall long-term effects of the development.

- It is highly likely that the grassland to the south of the site is of LWS quality. Any development adjacent to these areas would fragment the currently connected wetland habitats and also potentially alter their hydrology, causing further impacts outside of the application site.
- Culverting of the ditches would lead to the net loss of around 185m of watercourse. Avoiding development within the LWS would avoid this impact.
- Objection is raised to the loss of native hedgerow. Avoiding the LWS would help to avoid these impacts and other hedges could be retained. Any hedge removal should be replaced with double the length of new native hedge to offset the years to establish the same structure and habitat value.
- In summary, SWT objects to the proposals due to impacts to a LWS with insufficient mitigation, indirect impacts to an irreplaceable habitat, indirect impacts to potential LWS areas, net loss of watercourses and native hedgerows and overall net loss of biodiversity.
- The application should be refused unless the following amendments can be made – avoid damaging development with the LWS and probable extent of hydrological effects as shown in the Management Site Dossier, avoid locating SuDS within existing diverse habitats, avoid net loss of ditches and native hedgerows, avoid overall loss of biodiversity and contribute to the aims of the Meres and Mosses biodiversity opportunity zone.

The following comments were received in response to the further comments of Ecology Solutions Ltd dated 2<sup>nd</sup> February 2018:

- Regarding the procedures for designation/amendment of Local Wildlife Sites, members of the grading committee are in correspondence with the landowners and with Freeths LLP.
- Regarding the size threshold for habitats to be included in a LSW, the areas smaller than 0.25ha if separate from other areas may be an issue if this were a stand-alone new site but because they are adjacent to an existing LWS and make up part of the wetland complex along with the other wet grassland already in the LWS, an extension to include them was deemed appropriate.
- It is fairly common when revising an existing LWS for the boundaries to be updated, particularly if the habitats have changed for the better or worse or if there has been access to areas adjacent that had not previously been surveyed.
- The measurements quoted by Ecology Solutions in their reports appear to differ. The mapping provided by Ecology Solutions was used by the grading committee, however wetland species were recorded in quadrats outside of the mapped wet grassland and on aerial photos. There is not a very definite line between the qualifying and non-qualifying areas because of variations within each field. As SWT has not been able to survey and map the fields, it is hard to quantify exactly. The NVC survey method would not be the recommended method of assessment for most sites as unless the habitat is of very high quality, it is rare that a habitat falls exactly into a category.
- It is considered that the wet grassland habitats are somewhere between categories. One should not try to force the habitat into one category as they are a continuum.
- Whether or not officially designated, habitats meeting the LWS criteria for an SBI should be treated in the same way in terms of planning as they clearly have a value at the county level.
- It is necessary to mitigate losses to improved grassland and all habitats of any value to wildlife that will be lost across the site, if no net loss of biodiversity is to be achieved. The best way to quantify this is by using a biodiversity offsetting metric.
- The re-use of diverse wet grassland turf alongside an appropriate seed mix would be a suitable method for grassland creation however avoidance of losses would be the first choice and this has not been considered fully.
- Culverting should be avoided as far as possible for ecology, landscape and maintenance purposes and any retained or created channels should maximise biodiversity value so that overall the site can achieve a net gain in habitat value.
- Regarding the likelihood of restoration of the moss in future, it is recognised that development can help deliver restoration and management of important sites that would otherwise not be achieved. However, gaining a small improvement while at the same time sacrificing the possibility of full restoration in future, plus the fragmentation of habitat through incursion into the existing wetland complex and FEU, is not a sustainable outcome. The ideal solution is to avoid all impacts to the site while contributing to new habitats and the site's restoration, thereby showing a clear gain to the site and its function within the wider ecological network.

- Development could be located on an alternative site with less harmful impacts or even less of this site to avoid impacts. The current lack of housing supply should not be an excuse to threaten irreplaceable habitats when other sites would be more sustainable in terms of potential ecological impact.
- Ecology Solutions assert that the proposal avoids and mitigates adverse impacts. The development plan also seeks to ensure that development 'wherever possible enhances' the features mentioned. It is considered that it is always possible.
- The proposal does not entirely avoid impacting the wet grassland areas which could be achieved if the number of houses were reduced. The proposals also include restoration works within the LWS but as this is a different habitat with different proposed gains, it is not like-for-like and therefore hard to quantify the value. Merely using an area of habitat without factoring in the time delays, risk of recreating new habitat and likely final quality of new habitat, does not give a quantifiable figure. The only accepted way to quantify biodiversity loss/gain is by using a biodiversity offsetting metric to calculate the biodiversity units before and post construction and once established.
- In terms of indirect impacts, SWT is still very concerned that the proposed development, even if direct impacts were fully mitigated, does not consider the fragmentation of the existing habitat complex and would prevent further meaningful restoration of the moss should this be possible in future.
- In summary, SWT objects to the proposals as there is insufficient evidence to show that no net loss of biodiversity would occur and that the long-term viability and restoration prospects for the lowland raised bog would not be adversely affected.

In response to the Waterco Consultants' Hydrology Report submitted on behalf of the applicant, the following comments have been received:

- Active, peat forming Lowland Raised Bog where sphagnum mosses are able to grow and build the bog, do require adequate ground water levels, an acidic pH and water of good quality. Chorlton Moss is already in a compromised situation regarding its catchment as the existing urban development to the west has been built on some peat areas and will have changed the hydrology of the area, as well as the surrounding farming practices and the drainage ditches and farming of the land directly adjacent the moss. Bogs need as large an area as possible around them with semi-natural and wetland vegetation as well as an undisturbed peat layer, to soak up and filter incoming ground water. The more of a buffer and the lesser the disturbance of the ground, the better the quality of the water would be feeding the moss. Building a development directly adjacent the moss would not only reduce and fragment the existing semi-natural vegetation surrounding the moss, but also disrupt the peat layer through peat treatment and cause surface water to run-off more directly towards the moss with no guarantee of its quality, especially should any severe flood events occur or lack of management over the life of the development. The proposals would therefore only serve to increase the risk of poor quality water affecting the moss.
- The trends in the hydrology of this site are not clear. It can be presumed that at some point water levels were higher and it is known that drainage ditches taking water from such wetlands and the encroachment of trees and shrubs, will cause drier conditions. However, there is evidence that in the past 10-15 years, water levels have risen, possibly due to changes in water abstraction or increase in precipitation. Without a full hydrological study, no-one has a proper understanding of the hydrology of the Moss. While Waterco have experience in managing water in various industrial and practical situations, they may not be wetland specialists with knowledge of ecology or peatland systems. It is impossible to guarantee that changes made as a result of development will not have a negative effect and therefore the precautionary principle must be used and development within the extent of hydrological influence avoided.
- It would not take 'many decades' to restore functional raised bog and in any event this is not particularly relevant as should the moss be restored, it would have an ongoing benefit for the foreseeable future, however long it took to reach a healthy condition.
- If the development would allow more water to enter the moss than currently, it would only be a very small increase as the site makes up a very small proportion of the moss's catchment and any difference in evaporation that might occur between rainfall hitting the site and it flowing off will be tiny given its proximity. It is not accepted that the development could supply a greater volume of water than that which would normally fall on the area. What the



development would do is direct surface water more quickly, and with more contaminants, towards the moss and reduce the amount of rainfall recharging the ground water. This is one of the changes in hydrology threatening peatlands.

- Any excavation near the moss will influence the hydrology in some way. The proposed flood mitigation basis is proposed to be lined and this would be necessary to prevent water of an unknown quality entering the moss. Lining the pool however could cause issues when ground water levels rise.
- Chorlton moss is unlikely ever to be 'delisted as an important habitat'. As long as it is capable of restoration, it qualifies as an Annex 1 habitat. As long as peat is present and clean water can be supplied, bogs can be restored. The moss has had a covering of trees or shrubs for many decades and it is still restorable. Although it may be continuing to degrade, no survey has been carried out since 2009 and while it is desirable that action be taken to re-wet and this trees on the site, if development has an overall negative impact in other respects, this will not secure the long-term prospects for the moss.
- SuDs ponds do not produce clean water suitable to re-wet bog habitat. Such a basin, especially if it were to retain water, would not filter surface water sufficiently. Unless a vast system of filtration was put in place, it would not produce water of a quality any better than that running naturally into the site. No moss restoration project has actively encouraged development run off or any watercourse containing sub-quality water, to be directed into a bog habitat. In fact, the aim in most cases is to re-direct surface water flows away and allow ground water and rainfall to be the main water sources feeding the peatland. It is not considered that a SuDS pond full of nutrient adapted flora would be a positive replacement for the existing diverse marshy grassland.
- The assessment does not mention the proposed treatment of peat beneath the site. This can cause oxidisation and release of carbon dioxide and it would also change the hydrological properties of the peat and be likely to cause more of a barrier to water storage and movement as well as affect the peat's filtering properties, and raise the pH of the substrate.
- No mention is made of the long-term impact that a development in this location would cause in terms of the future restoration prospects for the moss. Development within the FEU and the extent of hydrological effects would present an additional barrier to the raising of water levels in future, as the SuDs basis would be flooded and property owners may object to water levels being raised if this might affect gardens. Any development within the hydrological basin of the moss will prevent full restoration and this cannot be in the best interests of the site.

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

- Baldwin's Gate has nearly doubled in size in under 20 years during which time there has been no increase in facilities or infrastructure resulting in a loss of amenity to the whole community
- Work is progressing on a Neighbourhood Development Plan and a Housing Needs Assessment defines an extremely low level of local need. This has been catered for by the Gateway Avenue development and there is absolutely no remaining projected need until at least 2034.
- Residents of Baldwin's Gate oppose the scheme.
- It is inappropriate as it is a greenfield site outside of the Village Envelope and contrary to policies.
- Facilities in the village are extremely limited and there are no significant job sources in the parish. The development is unsustainable.
- The access route is unacceptable for construction vehicles
- The proposal is opportunistic and parasitic. The harm in this case significantly outweighs the benefits.
- There are serious concerns as to the capacity of the existing sewerage plant to deal with the extra load that this would create. It is requested therefore that an outline plan for the modification/extension to the treatment plan is put forward.
- The site is basically a waterlogged bog which floods freely under any heavy rain.
- Adverse ecological impact on the site which is an irreplaceable ancient wetland habitat
- The affordable units are not sufficiently pepper-potted throughout the site
- The density is significantly higher than developments in the village and the 3-storey houses are out of keeping with the area.
- No details of given of street lighting or exterior residential lighting.

- Negative impact on the landscape.
- An application has been submitted to Staffs County Council for the right of way between Moss Lane and Meadow Way to be formally registered as a Public Right of Way
- If permission is granted, funding should be set aside to cover the upgrading of the surface of public right of way 7 as the route is already unsuitable for the current levels of use.
- The announcement by Staffordshire Wildlife Trust that it has amended the Local Wildlife Site boundary is supported and their recommendations on the need to protect this important ecological site from harmful and irreversible damage are wholeheartedly endorsed. It is emphasised that the extension is a fact and is material to the planning application. Any concern over the process is a matter between SWT and the applicant.

**Chapel and Hill Chorlton Parish Council** objects on the following grounds:

- Not sustainable as residents would have to travel by car to access employment and other services
- Housing is well provided for in this area. A Housing Needs Assessment produced as part of the Neighbourhood Development Plan identified a need for smaller homes, bungalows and affordable housing. The proposal includes no bungalows and only 4 1-bed and 9 2-bed dwellings.
- The site layout would leave a lack of integration and sense of community and the high density and small plots with large houses are much more appropriate to an urban setting.
- The play area is more than 500m away and would involve walking along the A53 which is unpleasant and potentially dangerous or travelling by car.
- Negative impact on Chorlton Moss.
- Greenfield site outside the village envelope.
- Access is unsuitable.

**Maer & Aston Parish Council** objects on the following grounds:

- The ground under the site consists of collapsing peat and to stabilise the unsuitable ground a process of cement grouting will be required which will have an adverse effect on the natural drainage of the area and negate the natural free flow of ground water through and under the site
- Impact on Chorlton Moss and the fact that a proportion of the surrounding woodland has been felled without permission
- Reference is made to the Government's 25 Year Environmental Plan

The **Environment Agency** and the **Housing Strategy Section** were consulted upon the application, the date by which their comments were requested has passed without comments being received from them and they must be assumed to have no observations to make

#### Representations

Approximately 338 letters of objection have been received. A summary of the objections made is as follows:

- Contrary to the NPPF and latest Government Housing Strategy, the emerging Neighbourhood Development Plan, the Joint Local Plan Preferred Options Consultation Document, the Core Spatial Strategy, Whitmore Village Design Statement & Whitmore Parish Plan and the Borough's strategy for rural development.
- The development will not provide 'the right homes in the right place' which is the major focus of the Government's current consultations on housing and planning policy.
- The dwellings are not needed. A Housing Needs Assessment report for the Neighbourhood Area concludes that an appropriate range of new housing during the plan period 2013-2033 is between 50 and 100 dwellings. The current construction of 109 homes on the Gateway Avenue site more than satisfies this.
- Not sustainable as the local infrastructure is incapable of meeting the needs of the further dwellings proposed in addition to those currently under construction at the Gateway Avenue site. There are limited GP resources, the primary school is oversubscribed and secondary

school children need to travel outside of Baldwin's Gate, and shopping facilities are limited so travel is inevitable.

- Public transport is limited especially for those who wish to use buses for work. At peak times the buses are full when they arrive at Baldwin's Gate and the village has no access to a bus service after 6pm, Monday to Saturday and there is no bus service on a Sunday.
- There are very limited employment opportunities in Baldwin's Gate and residents would need to commute, most likely by car, to their places of work due to limited bus service.
- Meadow Way, due to its restricted width and history of structural weakness, is not satisfactory for development and construction traffic which will involve the large scale removal and/or treatment of peat deposits.
- Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised.
- Although there have been improvements to pepper-potting of the social housing, the units are not uniformly spread across the whole of the site with the majority concentrated along the northern edge with no social housing to be found in the south.
- The Meadow Way junction with the A53 has poor visibility, has a difficult left turn of the A53 and is exacerbated by traffic to and from the filling station. It is not a good access for additional traffic.
- The proposal will add to the traffic and safety problems in Baldwin's Gate. The accident record on the A53 is severe and a recent fatal accident to the west of the Meadow Way junction has been omitted from the application.
- A number of manoeuvres were carried out by a Class 2 Large Goods Vehicle turning left into Meadow Way from the direction of Newcastle and secondly turning right out of Meadow Way and the manoeuvres were recorded by residents. When turning right out of Meadow Way the vehicle could not do so without striking the nearside kerb and it took at least 20 yards before it was totally on the correct side of the road. When it turned left into Meadow Way it had to be positioned totally on the offside of the A53 facing oncoming traffic for at least 20 yards before turning. This brought all the traffic travelling towards Newcastle to a standstill. The vehicle was unable to complete the turn into Meadow Way in one movement and it came to rest with the front overhanging the pavement in Meadow Way and the rear protruding onto the A53 and then it had to reverse a short distance onto the A53 to level the vehicle and complete the turn.
- In the event that Meadow Way is deemed unsuitable for construction traffic, it has been suggested that Fairgreen Road could be an alternative. Limited investigations have demonstrated that it will also present significant challenges and dangers.
- The Highway Authority states that a banksman could control construction traffic but they are employed on building sites and other private developments and there is nothing to indicate that such a person could lawfully control traffic on a designated highway.
- It is proposed to demolish a perfectly good 5-bed house to obtain access to the site. This will have an adverse impact on the character of the area.
- There is no public parking provision within the development.
- The development would cause depletion of agricultural land and would severely impact on wildlife and its natural habitat. Degradation of Chorlton Moss would be inevitable and felling of mature trees on a significant scale is also required. The applicant's ecology report and later addendum lack credibility.
- The development would result in the destruction of a rare peat bog which cannot be replaced and will alter the environment significantly.
- The development would create an incursion of urban sprawl into Chapel and Hill Chorlton Parish which would have a major negative impact on the parish's rural character and loose pattern of development.
- There is great concern that the applicant's plans show a 'possible future access' into a large field on the south-western boundary of the site.
- The previous application was refused on the grounds of ecological sensitivity of this wildlife habitat and surrounding elevated peat bog. Despite some cosmetic changes in this new application, the issues have not been addressed.
- The relocated balancing pond is within the Functioning Ecological Unit of the Raised Bog which conflicts with the NPPF.
- The removal of a naturally occurring area of rainwater attenuation that significantly contributes to reducing downstream flooding on the wider river and streams network.

- The surface water drainage strategy will mean a massive overloading of an existing level drainage ditch and the additional discharge of millions of litres of rainwater into the already overloaded river and streams network.
- The sewage pumping station and sewage treatment works are already overloaded and more properties would add to the problem which could affect existing properties.
- The site is poorly drained and flooding has occurred in the past in Meadow Way and should not be added to.
- There are no children's play areas or space for children to play or provisions for recreational activity or space.
- Open views of the country would be lost.
- The density of the proposed dwellings (26 dwellings per hectare) does not correlate with those surrounding the site (18/ha in Fairgreen Road and 15/ha in Lakeside). 3 storey houses are not in keeping as there are no such dwellings in Baldwin's Gate.
- Construction will cause excess nuisance to surrounding areas by way of dust, noise, pollution and quality of life. These points will be exacerbated for 7 years by the construction of HS2 with major traffic disruption also.
- The emergency access is across private land outside of the application site and as such its integrity by the present or future owners of the land cannot be guaranteed for use as an emergency access
- The existing public rights of way would become enclosed corridors with high fencing on both sides removing the open countryside aspect.
- There is no mention of Section 106 contributions or benefits to the local community.
- Two 19<sup>th</sup> century brick-built historic farmstead buildings, as defined in the Staffordshire Historic Environment Record, are proposed to be demolished and should be preserved.
- Peat remaining on site after stabilisation will continue to generate gases which could affect properties outside the site. Further information and advice is required regarding this issue.
- There has been no public consultation on this new application.

**Sir William Cash M.P.** objects to the proposal for the following reasons:-

- The proposed development does not significantly differ from the previous application which was unanimously refused by the Borough Planning Committee.
- It fails to address the reasons for refusal sufficiently to warrant approval.
- The reasons for the failure to fulfil the objectives of the NPPF, in addition to the environmental concerns, were detailed in relation to the previous application.

Sir William refers to his comments on the previous application which were as follows:

- Contrary to the NPPF, the developing Neighbourhood Development Plan (NDP) for Whitmore, Maer & Aston and Chapel & Hill Chorlton, the developing Joint Local Plan, the Core Spatial Strategy, Whitmore Village Design Statement & Whitmore Parish Plan and the Borough's strategy for rural development. Baldwin's Gate is not a key rural service centre.
- Not sustainable and the local infrastructure is incapable of meeting the needs of a further 99 dwellings in addition to the 109 currently under construction at the Gateway site. There are limited GP resources, the primary school is oversubscribed and secondary school children need to travel outside of Baldwin's Gate, and shopping facilities are limited so travel is inevitable.
- Meadow Way, due to its restricted width, is not satisfactory for development and construction traffic which will involve the large scale removal of peat deposits.
- Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised.
- Meadow Way junction with the A53 has poor visibility, has a difficult left turn of the A53 and is exacerbated by traffic to and from the filling station. It is not a good access for additional traffic.
- The proposal will add to the traffic and safety problems in Baldwin's Gate. The accident record on the A53 is severe and a recent fatal accident to the west of Meadow Way has been omitted from the application.

- The development would cause depletion of agricultural land and would severely impact on wildlife and its natural habitat. Degradation of Chorlton Moss would be inevitable and felling of mature trees on a significant scale is also required.
- Open views of the country would be lost.
- The sewage pumping station and sewage treatment works are already overloaded and more properties would add to the problem which could affect existing properties. Flooding has occurred in the past in Meadow Way and should not be added to.
- Public transport is limited especially for those who wish to use buses for work. At peak times the buses are full when they arrive at Baldwin's Gate and the village has no access to a bus service after 6pm.
- There are very limited employment opportunities in Baldwin's Gate and residents would need to commute, most likely by car, to their places of work due to limited bus service.
- The density of the proposed dwellings (26 dwellings per hectare) does not correlate with those surrounding the site (18/ha in Fairgreen Road and 15/ha in Lakeside). 3 storey houses are not in keeping as there are no such dwellings in Baldwin's Gate.
- Construction will cause excess nuisance to surrounding areas by way of dust, noise, pollution and quality of life. These points will be exacerbated for 7 years by the construction of HS2 with major traffic disruption also.

**Baldwin's Gate Action Group #2** objects on the following grounds:

- Unsustainable location due to the limited bus service and local employment, the damage to Chorlton Moss, impact on the primary school and GP surgery and the closing off of the public right of way.
- No need for housing due to an excessive over-supply in the rural area as evidenced in the Housing Needs Assessment report for the Neighbourhood Area of Chapel and Hill Chorlton, Maer and Aston and Whitmore Parishes
- Landscape impact due to impact on outward views into the surrounding landscape, impact on the character and quality of the wetland landscape of the area and Chorlton Moss Local Wildlife Site (LWS)
- The application adversely impacts a LWS with insufficient mitigation; it indirectly impacts an irreplaceable habitat and nearby potential LWS areas, with the loss of watercourses and native hedgerows, resulting in an overall net loss of biodiversity
- The application ignores the boundary extension of the LWS by Staffordshire Wildlife Trust.
- The proposed density does not correlate with those of the surrounding area
- Affordable housing ghettoised by being concentrated in the north-eastern part of the site
- There are already flooding issues in the area and should not be added to
- Inadequacy of the current pumping station and sewage facilities
- Meadow Way, due to its width, is not satisfactory for development and construction traffic and has a history of poor sub-structure resulting in frequent break up and movement
- Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised. Restricting of parking is not an acceptable solution for parents or patients.
- Impact of heavy construction traffic on the school due to air pollution and road safety hazards
- Poor visibility of the junction of Meadow Way with the A53
- Will add to the traffic and safety problems in the area
- Loss of valued green space
- Major impact on public right of way through loss of views and its enclosure with fences
- The path at the rear of Pasture Close is a local right of way

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Planning Statement
- Flood Risk Assessment and Drainage Strategy
- Tree Survey Report
- Landscape and Visual Impact Assessment

- Arboricultural Method Statement
- Statement of Community Involvement
- Ecological Assessment
- Addendum Ecology Report
- Transport Assessment
- Travel Plan
- Agricultural Land Classification
- Site Investigation Report
- Design Review Report
- Noise Report
- Archaeological Desk Based Assessment
- Hydrology Report

All of these documents are available for inspection at the Guildhall and as associated documents to the application in the Planning Section of the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/01024/FUL>

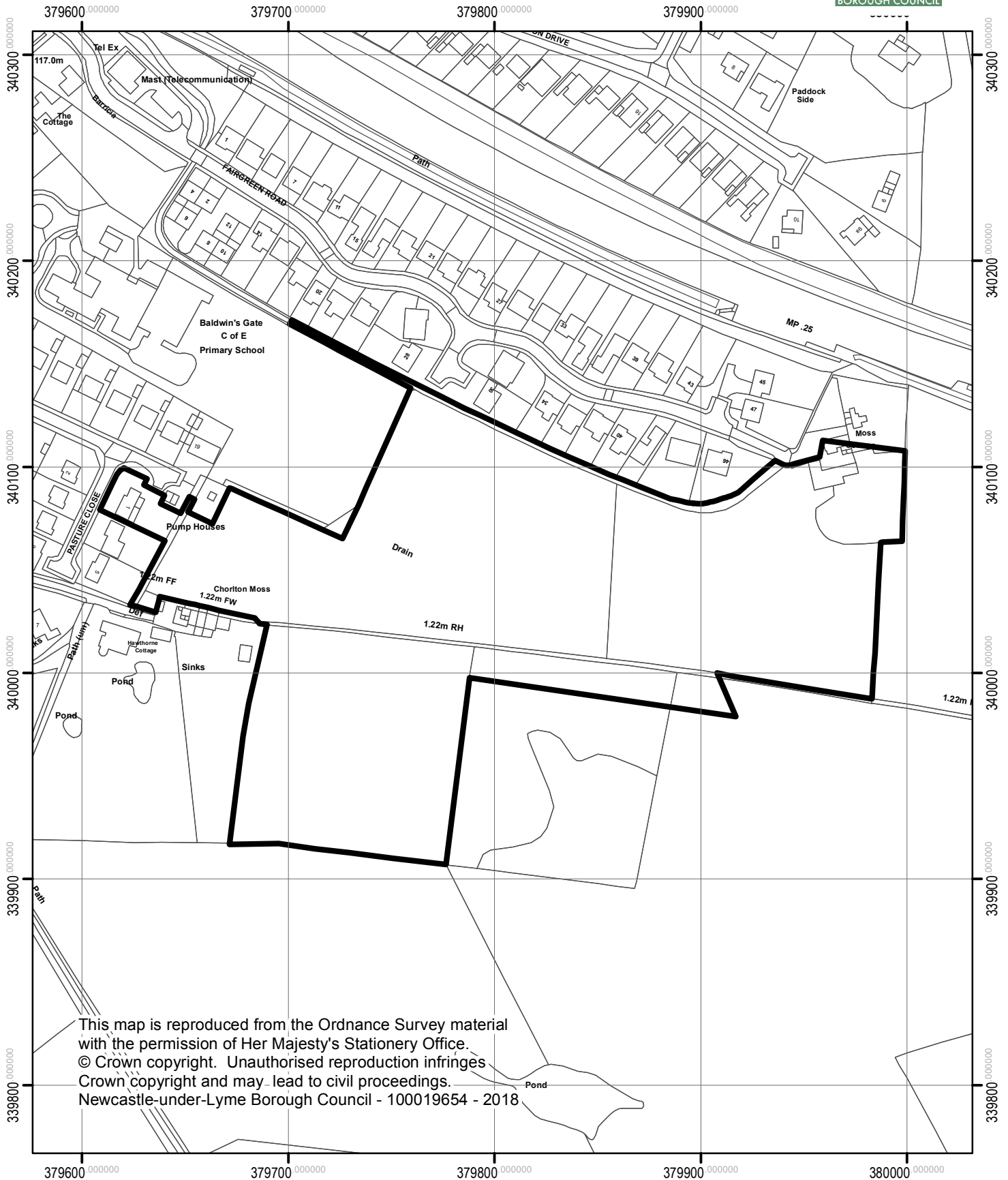
Background papers

Planning files referred to  
Planning Documents referred to

Date report prepared

11<sup>th</sup> April 2018

17/01024/FUL  
Land Off Meadow Way  
Baldwins Gate



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**5 SLINDON CLOSE, CHESTERTON, NEWCATSLE-UNDER-LYME**  
**MR ANDREW CLAY**

**18/00195FUL**

The application seeks full planning permission for the retention of a repositioned boundary fence along the western boundary of No. 5, adjacent to Slindon Close, Chesterton.

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

**The 8 week period for the determination of this application expires on 26<sup>th</sup> April 2018.**

**RECOMMENDATION**

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

- 1. Approved Plans**

**Reason for Recommendation**

The development is considered to represent appropriate development that would not harm the character or appearance of the existing dwelling or the surrounding area. The development therefore complies with the policies of the development plan and the aims and objectives of the National Planning Policy Framework 2012.

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

The development is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework. As such, no amendments were considered necessary to the application.

**KEY ISSUES**

The application seeks retrospective full planning permission for the retention of a repositioned boundary fence along the western boundary of No. 5, adjacent to Slindon Close, Chesterton.

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

The key issues for consideration in the determination of this application are considered to be:-

- Is the design and impact on the visual amenity of the area acceptable?

Is the design of the proposed development acceptable?

The NPPF states that the government attaches great importance to the design of the built environment, and 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.

Policy CSP1 of the adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

The application is for full planning permission for the retention of a two metre high close boarded fence with concrete posts and gravel boards. The fencing stretches the entire length of the western boundary (16 metres) and is marginally set back behind the adjacent public footpath.

The dwelling is sited on a prominent corner plot within Slindon Close and whilst there is an extensive amount of new fencing present this is not considered to be detrimental to the character or appearance of the locality. The adjacent property of No. 2 Slindon Close has implemented a similar scheme in both design and scale to the application being considered here. Therefore the fencing would not appear out of context within the context of this residential area.

The design of the development is considered acceptable and would accord with Policy CSP1 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) and the provisions of the NPPF.

## **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 ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Policy CSP1: Design Quality

### **Other Material Considerations**

National Planning Policy

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

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

[Draft revised National Planning Policy Framework \(March 2018\)](#)

Other Guidance

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

Relevant Planning History

None relevant to the determination of this application.

Views of Consultees

None

Representations

None received to date

Applicant/agent's submission

The application is supported by the requisite plans. These documents can be viewed by following this link to the application file on the Councils website;

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00195/FUL>

Background Papers

Planning File  
Development Plan

Date report prepared

11<sup>th</sup> April 2018

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**18/00195/FUL**  
**5 Slindon Close Chesterton**



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**IMPERIAL WORKS, COALPIT HILL, TALKE  
MR AL PROPERTY**

**18/00066/FUL**

The application is for full planning permission for the change of use of land from a former car park to external storage associated with the adjoining construction hoist rental business.

The application site is located within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors due to residents' concerns, particularly about impact on residential amenity and highways safety.

**The 8 week determination period expired on the 23<sup>rd</sup> March 2018 but the applicant has agreed to an extension of time to that period to the 27<sup>th</sup> April 2018.**

**RECOMMENDATION**

**Refuse for the following reason;**

**1. In the absence of the following;**

- **Details of the areas of storage, servicing, turning and staff / visitor parking;**
- **A swept path analysis to demonstrate that the largest vehicles (including trailers) can manoeuvre within the site curtilage as well as enter and exit the site in a forward gear;**
- **Details of the typical daily trips for all vehicles that will enter and exit the site;**
- **Details of the routeing of vehicles to the site;**
- **Numbers of staff to be based on site;**
- **site gradients;**
- **Bus stop relocation information; and**
- **A stage one road safety audit is also required.**

**the application has failed to demonstrate that the proposed development would not lead to significant highways safety implications for users of the highway, including pedestrian safety, which would be contrary to the guidance and requirements of the NPPF.**

**Reason for Recommendation**

Subject to conditions, the proposed development would not result in a significant adverse harm to the visual amenity of the area or undue harm to the residential amenity levels of neighbouring occupiers. However, the lack of information submitted with the application initially resulted in there being significant concerns about the impact of the development on highway safety and the nature of the use is likely to result in significant highway safety implications. Additional information has been submitted however the views of the Highway Authority have not yet been received on such information. In the absence of confirmation by the Highway Authority that the proposal does not give rise to unacceptable highway safety issues the development is contrary to the guidance and requirements of the NPPF.

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

This planning application is a resubmission following a previous application which was withdrawn due to objections regarding highway safety. The applicant has failed to address the previous objections and the fundamental concerns regarding highway safety have not been overcome. This is therefore not considered to be a sustainable form of development and so does not comply with the provisions of the National Planning Policy Framework.

## **KEY ISSUES**

The application is for full planning permission for the change of use of a former car park to use of the land for external storage.

The application site is located within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

A report was prepared for the 27<sup>th</sup> March Planning Committee but following the submission of a Highways Technical Note the views of the Highways Authority were sought and it was considered appropriate to defer making a decision on this application at this meeting to ensure that the additional information is properly considered and the views of the Highway Authority taken into account.

The key issues in the determination of the development are:

- The acceptability of the development in principle,
- The impact on the residential amenity of neighbouring occupiers
- Impact on visual amenity, and
- Impact on highways safety,

### The principle of the development

The application site is a former car park of a social club. The social club no longer exists and it appears to have been left vacant for a number of years.

The proposal is for the site to be used as an external storage yard associated with a neighbouring construction hoist rental business which operates from the main Imperial works site.

Policies of the CSS seek to support and encourage economic development with Policy SP2 seeking to support economic development that results in improvement in the levels of productivity, modernisation and competitiveness of existing economic activities.

The current National Planning Policy Framework (NPPF) at paragraph 19 highlights that the Government is committed to ensuring that the planning system does everything it can to support economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. The draft NPPF which is currently out for consultation indicates that Government policy is not set to fundamentally change in the near future.

At the heart of the Framework is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In light of the above, the starting point must be one of a presumption in favour of development unless any adverse impacts of the development significantly and demonstrably outweigh the benefits of the proposal.

### The impact on the residential amenity of neighbouring occupiers

The current NPPF seeks to protect living conditions and quality of life of an area (paragraph 123). The draft NPPF similarly, at paragraph 168, indicates that planning decision should contribute to and enhance the natural and local environment by, amongst other things, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability. In addition development should, wherever possible, help to improve local environmental conditions such as air quality.



The application site has been left vacant for a number of years but was previously used as a car park for a social club.

It is proposed that the site will be used for the external storage of industrial equipment including masts, scaffold hoists and platforms.

The site adjoins a number of residential properties on Coalpit Hill, Rockhouse Lane, Coppice Road and Browning Grove and the operation of the site as a storage area would have an impact on the residential amenity of these properties in noise and disturbance.

The application is supported by a noise assessment and the Environmental Health Division (EHD) have raised no objections subject to conditions that restrict the operation of the site to 7am to 9pm Monday to Friday and not at any time on Saturdays, Sundays, or Bank Holidays. They also seek a 2 metre high acoustic fence along any boundary which is shared with a residential property.

Over and above the submission of the noise assessment the EHD have also requested the submission of a noise management plan which shall identify all potential noise sources and the mitigation measures that will be applied to minimise noise. External lighting will also need to be submitted prior to it being installed.

It is accepted that the use of the site will result in increased noise and disturbance to residential properties due to the nature of equipment being stored and the vehicle movements to and from the site, along with movements within the site. However, subject to an appropriate acoustic fence being installed prior to the use of the site commencing and restrictions on the operations of the site, which can be secured by condition, it is considered that the harm to existing residential amenity levels will be acceptable.

#### The impact on visual amenity of the area

As discussed the site has been unused for a number of years and is now overgrown. There is vegetation on the boundary which does provide some level of screening.

The external storage of industrial equipment can have an unsightly appearance, especially in this instance because the site is visible from a number of vantage points due to its location on a busy road junction.

EHD have requested a 2 metre high acoustic fence along any boundary which is shared with a residential property. This is likely to be a timber acoustic fence and to avoid a range of different boundary treatments on the side and rear boundaries it is considered that a 2 metres high timber acoustic fence should be proposed on any side and rear boundary. The front boundary is proposed to have green mesh fencing and gates. It is considered that specification details (materials, height and location) of all boundary treatments should be secured by condition prior to the use operating from the site. It is also considered necessary that the industrial equipment is not stored at a height that is greater than the height of the fencing i.e. 2 metres, to avoid impact on the visual amenity of the area. Existing trees and vegetation on the boundaries should also be maintained where possible and tree protections measures installed where possible. These matters can also be secured by suitably worded conditions.

Subject to the above conditions it is considered that the proposal would not result in a severe adverse impact on the visual amenity of the area.

#### Impact on highways safety

The current NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. This is repeated in the draft NPPF at paragraph 109.

The access to the site would be off Coalpit Hill. Whilst visibility splay details have been provided, the information supporting the application upon submission was otherwise limited. The applicant has, however, now submitted a technical note which seeks to demonstrate that the proposed access

arrangements and swept path assessment will ensure that a 16.5m long articulated HGV and 12m long rigid HGV can access the site in a safe manner. This will require a bus stop to be relocated but there appears to be limited potential for this. It also sets out that the road safety audit does not highlight any fundamental issue associated with the proposed site access junction and all matters raised are capable of being dealt with during the detailed design stage.

The Highway Authority have been consulted on the technical and their comments are still awaited but are likely to be received prior to the committee meeting. Their comments will therefore be reported in advance of the meeting.

Due to the nature of the proposed use, the irregular shape of the site and the constraints of the existing highway network it is considered that the proposal still has the potential to cause significant highway safety implications on users of the highway and until formal comments of the Highways Authority have been received, on the additional information submitted, your officer maintains that the application should be refused for this reason.

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

The proposal would allow the existing business to expand and provide a greater level of storage but, as discussed, there are severe highway safety concerns that significantly outweigh the benefits and the proposed development is contrary to the guidance and requirements of the NPPF.

## **APPENDIX**

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

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

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP2: Spatial Principles of Economic Development  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

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

Policy T16: Development – General Parking Requirements  
Policy T18: Development – Servicing Requirements

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

#### National Planning Policy

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

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

#### [Draft revised National Planning Policy Framework](#)

#### Relevant Planning History

17/00069/COU Change of use from car park to industrial storage Withdrawn

#### Views of Consultees

The **Environmental Health Division** raises no objections subject to conditions to restrict operational hours (to between 7am and 9pm) and external lighting, along with the submission of details of an acoustic barrier and noise management plan.

The **Highways Authority** recommends the application should be refused on the grounds that there is inadequate information for a decision to be made on highway safety matters. The following information is therefore required;

- A stage 1 road safety audit of the proposed access including a designers response to any issues raised;
- A plan with dimensions detailing the specific areas of storage, servicing, turning and staff / visitor parking;
- A swept path analysis to demonstrate that the largest vehicles (including trailers) can manoeuvre within the site curtilage to enter and exit the site in a forward gear;
- Typical daily trips for all vehicles to enter and exit the site;
- Routing of vehicles to the site;
- Numbers of staff to be based on site;
- Site gradients; and
- Bus relocation.

**Kidsgrove Town Council** objects to the application due to highway safety issues from the volume of traffic and the type of traffic using the site. The levels of noise and pollution arising from the change is also likely to be detrimental to the amenity of the area. Visual impact is also a concern.

#### Representations

17 letters of representation have been received raising the following objections/ concerns;

- The site is not suitable for this use due to it being a residential area,
- Loss of privacy, noise, disturbance and security,
- The access is unsuitable being near to four junctions,
- The road is not suitable for large HGV's – the roads are narrow and hilly with bends in the road,
- There have been road accidents on this stretch of road,
- The storage use would have an unacceptable adverse impact on the area,
- Health and safety concerns due to weight of equipment to be stored,
- An existing 7.5 ton weight limit is being ignored,
- Existing pollution problems would be increased,
- This land is marked on the local plan as suitable for houses,
- The application has a lack of information on the operations and use of the site,
- The relocation of the bus stop to Swan Bank is not sustainable,
- A heavy goods vehicle movement every 6 minutes presents a serious safety hazard on an already busy junction of 4 roads,
- The removal of trees and hedges would be detrimental,

#### Applicant/agent's submission

The application has been supported by the planning application form, access plans, swept path analysis, topographical survey and a site location plan.

A Highways Technical Note has also been submitted during the consideration of the planning application.

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00066/FUL>

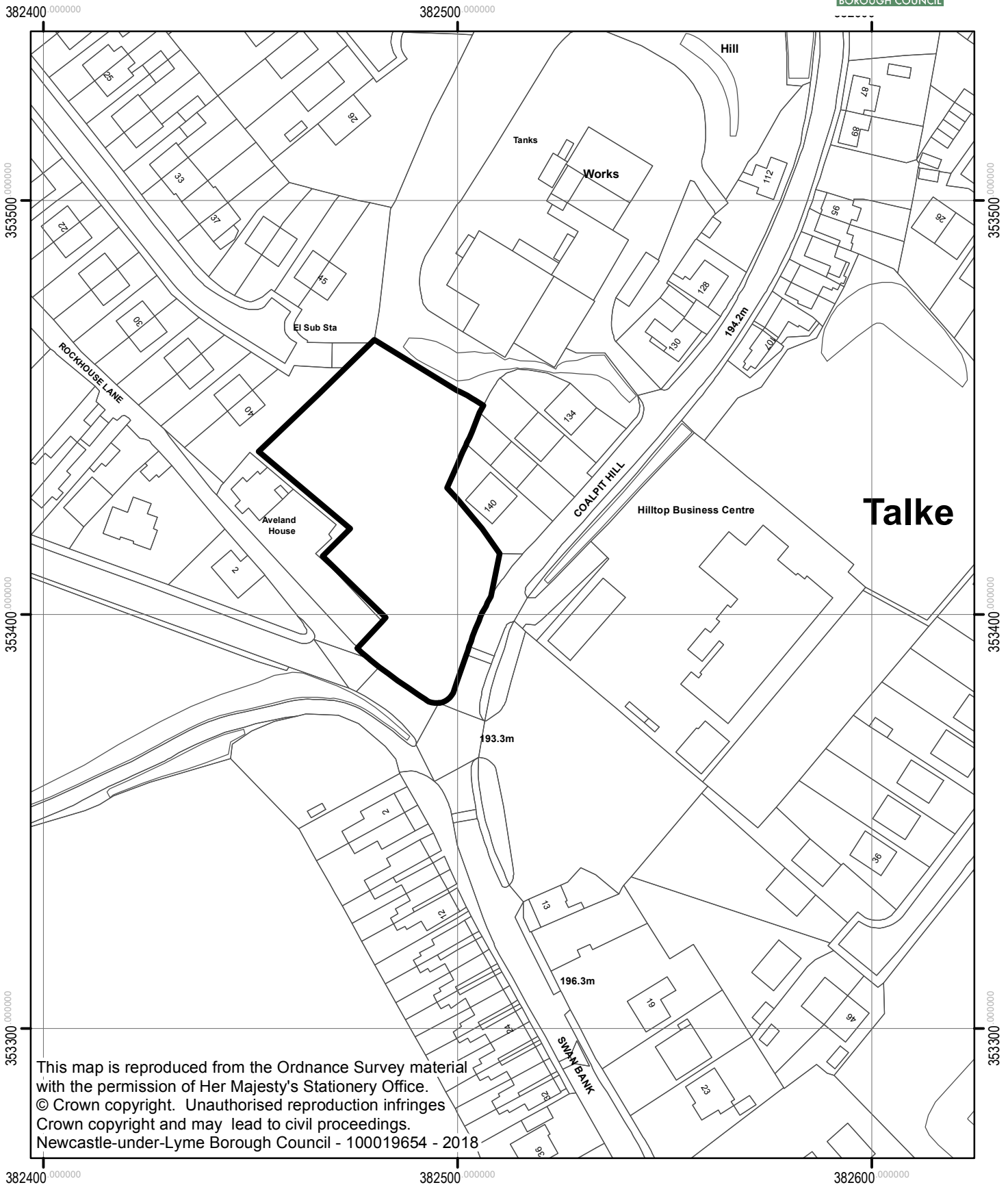
#### Background Papers

Planning files referred to  
 Planning Documents referred to

#### Date report prepared

11<sup>th</sup> April 2018

18/00066/FUL  
Imperial Works, Coalpit Hill, Talke.



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

### Purpose of the Report

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

### Recommendations

**a) That the report be noted**

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

### Introduction

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

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

This report covers the period between 6<sup>th</sup> December 2017 (when the Committee last received a similar report) and the date of the preparation of this report (13<sup>th</sup> April 2018).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent agreed extensions, and extensions have been agreed with respect to some 9 applications.

The Council needs to maintain a focus on delivery of these obligations – which can become over time just as important (to applicants) as achieving a prompt consideration of applications by Committee. In some cases applicants have however little immediate requirement to complete such obligations, being content to rest upon the resolution of the Committee. Expectations and requirements vary considerably. It is the issuing of the decision notice, rather than the consideration of the application by the Committee, which is the basis for the measurement of whether the decision has been made "in time" insofar as the speed of determination criterion for designation of poorly performing LPAs is concerned.

Furthermore Local Planning Authorities are required, as part of the Planning Guarantee, to refund any planning fee paid if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the Local Planning Authority have agreed in writing that the application is to be determined within an extended period. This provides yet another reason for the Planning Service

maintaining a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

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

Details of the applications involved are provided below:-

**(1) Land off Eccleshall Road, Loggerheads 16/00866/DEEM4**

This application, for outline planning permission for the erection of up to 55 dwellings, came before the Planning Committee on 2<sup>nd</sup> February 2017 (at around week 15). The resolution of the Planning Committee included a time limit for the securing, by the 3<sup>rd</sup> March 2017, of obligations relating to on-site affordable housing, the provision and long-term management of on site public open space and payment of a contribution towards education facilities.

The Section 106 agreement was not completed by the 3<sup>rd</sup> March due to delays on behalf of the Council as the Local Planning Authority in providing instructions, and accordingly it has been considered appropriate by your Officer to agree a number of further extensions to the period within which the obligations can be completed by.

There were further delays on behalf of the applicant and the County Council (as the education authority) in the last quarter and your Officer twice agreed to extend the time for the completion of the agreement. The agreement was finally completed on the 21<sup>st</sup> March and the decision notice on the application was issued "out of time" on the 4<sup>th</sup> April 2018.

The decision was issued in this case some 76 weeks after receipt of the application.

**(2) Land around Wilmot Drive Estate 17/00281/FUL**

This application for full planning permission for the erection of 276 dwellings, public open space and associated infrastructure works came before the Planning Committee at its meeting on the 18<sup>th</sup> July 2017 (at around week 15). The resolutions of the Committee inter alia required obligations be entered into securing a financial contribution of £60,000 towards a Multi-Use Games Area, an undefined sum towards off site highway works, commuted off site affordable housing payments, travel plan monitoring fee of £6,430, an agreement for the long term maintenance of on site public open space, and the review of the financial assessment of the scheme and its ability to make additional contributions, if there has been no substantial commencement within 18 months of the grant of planning permission. The resolution included the requirement that the agreement containing these obligations should be completed by the 25<sup>th</sup> August 2017.

That date passed without the obligations being secured, following delays, and your Officer agreed to extend the time within which the agreement could be completed on a number of subsequent occasions due to steady progress being made on what is a fairly complicated agreement. However, considerable progress has now been made and the wording of the agreement has been agreed and it has been circulated between the various parties. Your Officer has therefore agreed to extend the time within which the agreement could be completed by - to the 1<sup>st</sup> May.



Some 53 weeks have now passed since receipt of the application.

**(3) Land south of Market Drayton Road 17/00067/DEEM4**

This application, for outline planning permission for the erection of up to 65 dwellings with associated open space and landscaping, came before the Planning Committee on 12<sup>th</sup> September 2017 (at around week 32). The resolution of the Planning Committee included a time limit for the securing, by the 12<sup>th</sup> November 2017, of a Section 106 agreement providing obligations relating to a management agreement for the long-term maintenance of the open space on the site, a financial contribution of £132,976 towards education places, 25% on site affordable housing, and a financial contribution of £5,579 per dwelling if an equipped play area is not provided on site.

The agreement was not completed by the 12<sup>th</sup> November following delays on behalf of the Council as the Local Planning Authority in providing instructions, and accordingly it was considered appropriate by your Officer to agree an extension to the period within which the obligations can be completed by – to the 20<sup>th</sup> December.

There were further delays on behalf of the applicant and the County Council (as the education authority) and your Officer agreed to extend the time for the completion of the S106. Your Officer has again agreed to extend the time within which the agreement could be completed by - to the 1st May.

Some 62 weeks have now passed since receipt of the application.

**(4) Land North of Bradwell Hospital 17/00515/DEEM4**

This application, for outline planning permission for the erection of up to 85 dwellings, came before the Planning Committee on 10<sup>th</sup> October 2017 (at around week 16). The resolution of the Planning Committee included a time limit for the securing, by the 11<sup>th</sup> November 2017, of an agreement providing obligations relating to on-site affordable housing, and payment of contributions towards public open space and education facilities, and the monitoring of a travel plan.

The agreement was not completed by the 11<sup>th</sup> November 2017 due to delays on behalf of the Council as the Local Planning Authority in circulating a draft agreement, and accordingly it has been considered appropriate by your Officer to agree a number of further extensions to the period within which the obligations can be completed by.

The Education Authority have also recently raised an issue regarding the where the financial contribution should be spent and a report was taken to the 27<sup>th</sup> March 2018 Planning Committee at which it was resolved that the financial contribution should be spent at either the Sun Primary Academy or Bursley Primary Academy.

The agreement is now nearing completion and your officer has agreed to extend the period within which the Section 106 agreement may be completed, to the 23<sup>rd</sup> April.

A further update will be given prior to the committee meeting on the 24<sup>th</sup> April

Some 42 weeks have now passed since receipt of the application.

**(5) Site of former Baptist Church, London Road, Newcastle 17/00162/FUL**

This application for full planning permission for the amendment of a scheme for flats on this site came before the Planning Committee at its meeting on the 12<sup>th</sup> September (at around week 28). The resolution of the Committee was that subject to

- (a) Your officer determining, on the basis of a new financial assessment by the DVS, that the development still cannot finance all or part of any policy compliant contributions to offsite affordable housing provision and public open space; and

- (b) subject to the applicant entering into a Section 106 obligation by agreement by 30<sup>th</sup> October, to provide such policy compliant contributions as can be afforded and requiring in the event of substantial commencement of the development (as defined in the previously entered into Section 106 agreement) not being achieved within 18 months of the date of the permission, a financial reappraisal of the scheme to assess its ability at that time to fund full policy compliant contributions to offsite affordable housing provision and public open space, and the making of such contributions as are financially viable the application (17/00162/FUL) was to be permitted.

Following a review of the District Valuer's report and your officer reaching a view on the financial position a deadline for the completion of the agreement was agreed of the 13<sup>th</sup> December 2017. The agreement was subsequently completed on the 19<sup>th</sup> December and the decision notice on the application was issued 'in time' on the 22<sup>nd</sup> December.

The decision was issued in this case some 32 weeks after receipt of the application.

(6) Land Bound By Rycroft, Ryebank, Merrial Street 17/00637/FUL

This application for full planning permission for demolition of existing buildings and construction of a mixed use development of student accommodation, retail and commercial units and associated car parking originally came before the Planning Committee at its meeting on the 7<sup>th</sup> November (at around week 15). The resolutions of the Committee inter alia required obligations be entered into securing a financial contributions of; at least £542,797 to public realm improvements with the remainder (being at least £250,000) to be spent on the enhancement of public open space at Brampton Park or Queen Elizabeth Gardens, £2,245 towards travel plan monitoring; Real Time Passenger Information system for bus services; improvements to the cycle route from Newcastle town centre to Keele University; Real Time Town Centre Car Parking Capacity Information System; to review and provide/amend traffic regulation and 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. The resolution included the requirement that the agreement containing these obligations should be completed by the 8<sup>th</sup> January 2018.

However a further report came back to the Planning Committee on the 2nd February 2018 which set out that it is not legally possible for the Council to enter into an agreement with itself. Therefore the resolution of the Planning Committee was that all parties should enter by 8<sup>th</sup> March 2018 into an Agreement under Section 111 of the Local Government Act 1972, which requires that a draft S106 Agreement (in the terms as per the resolution of Planning Committee on 7<sup>th</sup> November), annexed to the S111 Agreement, is entered into once the transfer of the site has taken place.

The 8<sup>th</sup> March was not achieved but considerable progress has been made by all parties and on this basis your Officer has agreed to extend the deadline for the completion of the agreement to the 8<sup>th</sup> May 2018.

Some 37 weeks have now passed since receipt of the application.

(7) Land South of Honeywall Lane 17/00514/OUT

This application, for outline planning permission for the erection of up to 35 dwellings came before the Planning Committee on 7<sup>th</sup> November (at around week 19). The resolution of the Planning Committee included a time limit for the securing, by the 10<sup>th</sup> December 2017, of planning obligations with respect to the provision of 25% on-site affordable housing and financial contributions towards off-site public open space and primary and secondary school places.

The date for the completion of the Section 106 agreement was always challenging given the timescales. However, further delays were encountered on both sides but more recently on behalf of the applicant regarding land ownership matters and land registry. These matters have still not been resolved but the agreement is almost ready to be completed once the land

registry matters are resolved. Therefore your Officer has agreed to allow a further extension to the deadline for the completion of the agreement to the 8th May 2018.

Some 41 weeks have now passed since receipt of the application.

(8) Site of Former Wrinehill Garage Main Road 17/00968/FUL

This application for full planning permission for the erection of 9 dwellings came before the Planning Committee at its meeting on the 27<sup>th</sup> February (at around week 12). The resolutions of the Committee inter alia required that an obligation to secure a financial contribution of £11,158 towards the maintenance and improvement of public open space. The resolution included the requirement that the agreement should be completed by the 16<sup>th</sup> March.

The date for the completion of the planning obligation by undertaking was always challenging given the timescales, the 16<sup>th</sup> March was not achieved. However, because the undertaking was nearing completion your Officer agreed to extend the time for the completion of the agreement, initially to the 28<sup>th</sup> March, and subsequently to the 6<sup>th</sup> April.

The undertaking was completed on the 4<sup>th</sup> April and the decision notice was issued “out of time” on the 10<sup>th</sup> April 2018.

The decision was issued in this case some 18 weeks after receipt of the application.

(9) 58 Abbots Way, Westlands 17/00906/FUL

This application for full planning permission for a single dwelling came before the Planning Committee at its meeting on the 1st February (at around week 11). The resolutions of the Committee inter alia required that an obligation to secure a financial contribution of £5,579 towards the maintenance and improvement of public open space. The resolution included the requirement that the agreement should be completed by the 28<sup>th</sup> February.

The date for the completion of the S106 obligation by undertaking was always challenging given the timescales and your Officer agreed a revised date of the 14<sup>th</sup> March to allow more time for the submission and completion of the undertaking. Further delays were experienced due to problems establishing ownership of the property and this resulted in the applicant withdrawing the planning application on the 13<sup>th</sup> March 2018.

Some 16 weeks from receipt had passed when the application was formally withdrawn.

Date Report prepared

12<sup>th</sup> April 2018

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**APPEAL BY MODULTEC INTERNATIONAL LIMITED AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE DEMOLITION OF THE FORMER SAVOY CINEMA/METROPOLIS NIGHTCLUB AND ERECTION OF A 13 STOREY STUDENT ACCOMMODATION BUILDING AT THE SITE ON THE MIDWAY, NEWCASTLE-UNDER-LYME AND APPLICATION FOR AN AWARD OF APPEAL COSTS AGAINST THE BOROUGH COUNCIL**

<b><u>Application Number</u></b>	<b>17/00174/FUL</b>
<b><u>Recommendation</u></b>	<b>Approval subject to securing of a planning obligation</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee 9<sup>th</sup> May 2017</b>
<b><u>Appeal Decision</u></b>	<b>Appeal allowed and planning permission granted</b>
<b><u>Costs Decision</u></b>	<b>An application for an award of costs against the Council refused</b>
<b><u>Date of Appeal &amp; Cost Decisions</u></b>	<b>23<sup>rd</sup> February 2018</b>

## **The Appeal Decision**

The Inspector identifies the main issues to be:

- i. Whether the proposal would preserve or enhance the character or appearance of the Newcastle Town Centre Conservation Area and the effect on the setting of listed buildings in the Conservation Area. In the event of harm in these respects whether any harm identified to the significance of the heritage asset is outweighed by public benefits; and
- ii. The effect on highway safety resulting from additional demand for on-street parking.

In allowing the appeal the Inspector makes the following comments, after reviewing the policy position:-

### **With respect to the first reason for refusal**

- The building is vacant and has been so for several years and as such has fallen into a state of disrepair. The Heritage Statement submitted with the application recognises that the building is a non-designated asset which is of no particular importance in the Conservation Area but nonetheless acknowledges the significance of the building by stating that the proposal would have some adverse effect on the significance of the Conservation Area.
- The clock tower and cupola of the Grade II listed Guildhall and the tower on St Giles Church are prominent and important features in the skyline of the town centre. The Guildhall dominates views up the High Street which is a positive characteristic of this part of the Conservation Area. The proposed development would be visible from some views within the town centre and from locations such as Friars Street would be highly prominent. There is some concern that the proposed building would compete with the Guildhall, market square setting of the Guildhall and the overall character and appearance of the Town Centre Conservation Area. In particular there is concern that the overall massing and scale of the proposal would be an incongruous and inappropriate visual feature and would result in there being substantive harm to the significance of the Conservation Area and the Listed Building.
- However, it was observed that in its town centre location the views of the new development would largely be screened by existing buildings and it would be seen in the context of existing buildings around the Midway including the cinema, the car park and Keele House (former Blackburn House). The effect on key views from the High Street area has been mitigated by stepping down the building towards the High Street which would help to integrate the building into its sensitive surroundings. Therefore, the overall scale and massing of the building as evidenced by the appellant's Visual

Impact Assessment, would not over-dominate views towards the town centre and its sky line.

- The building would have some adverse impacts on longer distance views towards the Town Centre but the most important buildings in the locality, the Guildhall and St Giles Church, would retain their status as particularly prominent, important and distinctive buildings and their profiles and character would not be compromised or lost against the proposed development.
- Along Midway the proposed development would have a positive impact on the character and appearance of the Conservation Area.
- The materials to be used could be secured by a suitably worded condition but those identified are considered to be suitable for the building's setting.
- The limited impact of the proposal would cause "less than substantial" harm to the character and appearance of the Conservation Area and other heritage assets. In accordance with paragraph 134 of the Framework, the harm must be weighed against the public benefits of the proposal.
- The appellant has demonstrated that there would be a number of benefits from the development in the improvements to the character and appearance of part of the Conservation Area immediately to the site and a number of financial contributions would also be gained. In addition, there may be some economic and social benefits associated with construction activity and the provision of a large number of student accommodation units. These benefits are considered to outweigh the harm that has been found.
- In balancing these issues, significant importance has been attached to the desirability of preserving the Conservation Area and historic assets. Although the proposal would fail to preserve or enhance the character or appearance of the Conservation Area and associated heritage assets, there are clear benefits that weigh in favour of the proposal. These include that there would be some improvements to the character and appearance of part of the Conservation Area immediately adjacent to the site, a number of financial contributions, that there may be some economic and social benefits associated with construction activity and the provision of a large number of student accommodation units. These amount to public benefits which outweigh the less than substantial harm to the character and appearance of the Conservation Area and any harm to the setting of Listed Buildings.

#### **With respect to the Council's second reason for refusal**

- It relates to the absence of parking and significant additional on-street demand which would be created by the development and resultant exacerbation of congestion in the area. The Council suggest that saved Local Plan Policy T17 (which indicates that development within the ring road will not be permitted to provide any new private parking) is not intended to apply to residential development but there is no evidence that this is the case and had it done so then surely it would have contained specific requirements to that effect.
- The Written Ministerial Statement of March 2015 states that local planning authorities should only impose local parking standards where there is clear and compelling justification that it is necessary to manage their local road network. There is no compelling evidence which justifies the application of car parking standards in this particular case.
- Furthermore, Keele University has measures to discourage students from driving to campus and parking their vehicles and this will have some effect of discouraging students bringing their cars to their place of study. Furthermore, measures can be secured through conditions and the Section 106 agreement which will encourage the use of more sustainable methods of transport.
- It is inevitable that some students will wish to use their own vehicles and may wish to park in unrestricted residential streets. Whilst there have been discussions between the Council and the appellant regarding the use of the Midway car park, no agreement has been finalised and as such it has no weight in the determination of the current appeal.
- Given the provisions of the Framework in the light of the Written Ministerial Statement and the package of measures that can be put in place to encourage the use of more sustainable means of transport, there is insufficient evidence that the proposal would

be likely to have a harmful effect on highway safety resulting from additional demand for on-street parking.

### **Section 106 Planning Obligation**

- A Unilateral Undertaking (UU) has been submitted which has a mechanism which provides for obligations which if found not to pass the statutory tests will have no effect. The following provisions are made for in the UU and each will be dealt with below:
  - A. The provision of a free bus pass for students;
  - B. A financial contribution of £2,200 towards travel plan monitoring;
  - C. A financial contribution of £8,000 towards ongoing maintenance of the Real Time Passenger Information (RTPI) system for bus services;
  - D. A financial contribution of £11,600 towards improvements to the cycle route from Newcastle to Keele University;
  - E. A financial contribution of £220,871 towards the enhancement of public open space; and
  - F. A financial contribution of £47,000 towards public realm improvements in the vicinity of the site.
- With regard to items A, B and E there is no dispute between main parties and these are considered to be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.
- Although with reference to C the appellant claims that the RTPI apparatus has already been installed, there is no evidence that this is the case. Given the nature of the current proposal and the reliance on public transport facilities that future occupants will have, it is considered necessary to ensure that the real time information is one way to ensure that use of public transport facilities in the area is optimised. The figure of £8,000 has been clearly justified and C is found to meet the relevant tests.
- It is clear that there is an aspiration to improve the cycle route between Newcastle Town Centre and Keele University. However, the overall cost of the project provided by the Council is just an estimate and there is no evidence of how the figure per cycle space relates to the delivery of the cycle route improvements. Therefore, there is no evidence to justify how contribution D is related in scale and kind to the development.
- With reference to sum F there is no dispute between parties regarding the sum required for landscaping the area adjacent to the site and 10 years of associated maintenance. However the remaining contributions towards missing dropped kerbs on Midway, improving lighting under a nearby underpass and preparation for paint treatment of the subway on Lower Street are disputed by the appellant.
- The paving requirements are not attributable to the current proposal and are not reasonably related to it nor are they required to make the development acceptable in planning terms. Furthermore the works proposed relating to painting the nearby subway seem to be part of a general maintenance programme rather than relating to the proposal or being reasonably related in scale or kind to the appeal proposal. Finally, while lighting to the subway may be desirable, it is not considered necessary to make the development acceptable in planning terms. Therefore, with regard to sum F the only contribution considered necessary is £5,000 which relates to landscaping the area adjacent to the site and 10 years of associated maintenance.

### **Conclusion**

- For the reasons given above and taking into account other matters raised, the proposal does not conflict with the development plan taken as a whole and the appeal should be allowed.

### **The Costs Decision**

- Other than stating that the local planning authority has failed to exercise their responsibilities in refusing to grant permission and has acted unreasonably the appellant has provided no further details of why they find this to be so.
- Although the Council is not duty bound to follow the advice of its professional officers, if a different decision is reached the Council must clearly demonstrate on material planning grounds why a proposed development is unacceptable and must provide clear evidence to substantiate that reasoning. The Council refused to grant permission against officer advice however although the Inspector disagreed with that decision, the decision Members arrived at was based on their consideration under the development plan, the National Planning Policy Framework and other material considerations.
- In arriving at a conclusion regarding whether the proposal preserves or enhances the character or appearance of the Conservation Area and the effect on the setting of listed buildings, it has been concluded that the proposal would result in 'less than substantial' harm and that the overall public benefits of the proposal would outweigh the harm found. While the Council considered the harm to be 'substantial', it is clear that this is a finely balanced decision and the Council in the execution of its duties was entitled to make the decision it did in light of the development plan and other considerations without having behaved unreasonably.
- Members also came to a different view to their Officers regarding the highways impact of the proposal. The Council presented a coherent and reasonable case as to why it arrived at its conclusion. Although in allowing the appeal, a different conclusion was reached, based on the most up to date policies and guidance as well as other considerations including the mitigation package which will be secured through the completed unilateral undertaking which would make a significant contribution to sustainable transport measures and reducing the likelihood of private measures being required by future occupants of the development, it is not considered that the Council behaved unreasonably.

#### **Your Officer's comments**

Upon receipt of the appeal decision consideration has been given to whether or not there are grounds for a challenge in the Courts to the decision – on the basis of it being an unreasonable one. Whilst issue could be taken with the inclusion by the Inspector (in his consideration of the benefits of the scheme) of the financial contributions secured by the planning obligation – these are arguably not benefits per se but rather represent the required mitigation of the impacts of the development – the Inspector does identify other benefits in his weighing up of the position, and it is considered that he has signalled his reasoning (for example in paragraphs 21 and 22 of the decision letter) to a sufficient extent to render any challenge very unlikely to succeed.

The attention of the Highway Authority has been drawn to the comments of the Inspector on the cycle path improvements contribution element. Whilst the Inspector did not consider that he could support the wider public realm improvements that were sought by your officer, and this is disappointing, he did consider the immediate environment around the scheme needed to be improved.

#### **Recommendation**

**That the appeal and costs decisions be noted**



Planning Committee 24<sup>th</sup> April 2018

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

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

Since the last report to the Planning Committee at its meeting on the 2<sup>nd</sup> January 2018 one new case has been added to this list and one has been closed. 5 cases are reported upon. Details of all the cases, the progress made within the last Quarter, and the targets for the next Quarter are contained within the attached Appendix.

A report on one of the open cases contains information that is considered to be exempt by reason of the provisions of paragraphs 6 and 7 of Schedule 12A of the Local Government Act 1972, as amended, and is therefore provided separately.

## RECOMMENDATION

**That the information be received.**

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Land off Pepper Street, Hollywood Lane, Newcastle.</p> <p>Unauthorised siting of a caravan for residential use.</p>	5.8.15	<p>An Enforcement Notice has been served which would have taken effect on 28<sup>th</sup> February 2016 had an appeal not been lodged. The EN requires the cessation of the use of the land residential purposes; the removal of the caravan and associated structures and paraphernalia: and the removal of any fencing erected on the perimeter of the land.</p> <p>The appeal was considered at an Inquiry on 14<sup>th</sup> February 2017 and a decision has now been received (which is reported elsewhere on this agenda). The Inspector upheld the notice and as such it took effect on the date of the appeal decision, 21<sup>st</sup> February. The steps set out in the notice had to be complied within six months i.e. by 21<sup>st</sup> August 2017.</p> <p>Prior to the last meeting a visit to the site established that the caravan had been removed, however as some the associated structures and paraphernalia, and the fencing, remain on site the Notice has not been fully complied with. This is still the case.</p> <p>At this point in time it is not considered that it is in the public interest to pursue full compliance with the Notice but it is considered appropriate and necessary to monitor the site as there remains the possibility that residential occupation could recommence.</p>	Monitor site for any signs of residential occupation.

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Land off Keele Road, Newcastle</p> <p>Non-compliance with condition 9 of planning permission 11/00430/FUL for the erection of 61 dwellings (amended layout to that already approved including an addition 13 dwellings)</p>	<p>20.10.16</p>	<p>Various planning permissions have been granted for residential development on land off Keele Road, Newcastle (known as Milliner's Green). Due to the proximity of the site to the existing Scrap Yard (Hampton's) certain of the planning permissions granted were subject to a requirement that an acoustic barrier should be installed along the western boundary of the site. A fence was erected and due to concerns about the standard of the fence when planning permission was granted in 2012 for the erection 61 dwellings (ref. 11/00430/FUL) a similar requirement was imposed.</p> <p>As the developer had not addressed the concerns expressed regarding the suitability of the fence, despite being approached by officers on a number of occasions and the developer offering assurances that works to the fence would start, it was decided that appropriate enforcement action was necessary.</p> <p>The Enforcement Notice was served on 30<sup>th</sup> June and took effect on 31<sup>st</sup> July. The steps required by the Notice include the requirement to erect a timber acoustic fence in accordance with details to be submitted within 28 days within 2 months after the date the Council approves the details of the fence. As previously reported such details were submitted on 26<sup>th</sup> July, which was within the time period specified in the notice, and were agreed in writing.</p> <p>A fence has been erected earlier this year which is to the required specification but upon last inspection was not along the entire length of the boundary.</p>	<p>Visit the site to establish whether the fence has been fully erected in accordance with the approved details and if not pursue, with the developer, full compliance.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Residential Development on site of the Former Silverdale Colliery</p> <p>Non-compliance with condition B8 of outline planning permission 06/00337/OUT which requires the provision of 2 Locally Equipped Areas for Play (LEAPs) and 1 Neighbourhood Equipped Area for Play (NEAP) as integral parts of the development</p>	<p>25.04.17</p>	<p>Last year Planning Committee refused an application to vary condition B8 of outline planning permission for residential development on the site of the former Silverdale Colliery. In addition Committee resolved 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, within six months, the provision of a second Locally Equipped Area for Play as required by condition B8 of planning permission 06/0337/OUT and to address any other outstanding issues associated with play provision on this development as your Officer considers appropriate.</p> <p>As previously reported a meeting has taken place with the Developer who has indicated that further works will be carried out to the play area close to Station Road so as to provide additional play experiences in accordance with the requirements of a LEAP.</p> <p>Details of a revised play area have now been received which Landscape Development Services advise are acceptable.</p> <p>A position has not yet been reached with regard to the NEAP.</p>	<p>Agree a timetable for the completion of the agreed LEAP.</p> <p>Reach a position with regard to the required NEAP.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Land at Doddlespool and Elms Farm, Off Waybutt Lane, Betley</p> <p>Importation and deposit of earth, and waste material on land and associated engineering operations to create a trackway.</p>	<p>20.4.15</p>	<p>Material has been imported onto the site and a new access is currently being constructed from Waybutts Lane (with the initial section being within Cheshire East Council's area).</p> <p>Whilst an application was submitted it was invalid upon receipt. As the importation of material continued work continued consideration was given to the expediency of enforcement action and a Temporary Stop Notice (TSN) was served on the owner on 13<sup>th</sup> February requiring the cessation of the importation and deposit of earth, and waste material on land and the associated operations to create a track. The reason for the action was to prevent adverse harm and effect on Betley Mere Site of Special Scientific Interest (SSSI) and Black Firs and Cranberry Bog SSSI.</p> <p>As a TSN only stops development for a limited period consideration has been given as to the need to take further enforcement action. The conclusion that has been reached is that it is expedient to serve an Enforcement Notice (SN) and a Stop Notice. The reason for the action is that the unauthorised works are contrary to local and national policy in terms of the unknown impact to the designated SSSIs and also due to the adverse harm to the openness of the Green Belt.</p> <p>Such Notices were served on 12<sup>th</sup> April, with the SN taking effect after 3 days. Both Notices require the cessation of the unauthorised importation of material onto the site and all activity associated with the engineering works, including the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas.</p>	<p>Monitor compliance with the SN.</p>

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## Report on Open Enforcement Cases

### Purpose of the Report

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

### Recommendations

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

### **Background**

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

In the last quarter (October - December 2017) a further 52 new cases have been reported, less than the previous quarter (64). The current number of open cases is 279 which is more than the previous quarter. The number of open cases has increased in this quarter.

A number of the cases indicated in the Table below have associated pending planning applications that are awaiting determination (10 as at 06 April 2018).

### **Conclusions**

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

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

### **Current Outstanding Enforcement Cases**

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

#### ***Current Enforcement Status***

<b>Year</b>	<b>Total</b>	<b>Open</b>	<b>C1</b>	<b>C2</b>	<b>C3</b>	<b>BOC</b>	<b>L</b>	<b>M</b>	<b>H</b>
2018	59	33	-	31	2	-	-	-	-
2017	266	47	1	35	11	-	-	-	-
2016	259	30	1	16	13	-	-	-	-
2015	238	31	1	18	11	1	-	-	-
2014	212	38	-	30	8	-	-	-	-
2013	219	27	5	18	4	-	-	-	-
2012	229	21	7	10	4	-	-	-	-
2011	204	11	2	7	2	-	-	-	-
2010	206	8	2	5	1	-	-	-	-
2009	233	6	-	4	1	-	-	-	1
2008	276	8	-	-	-	-	3	5	-
2007	353	5	-	-	-	-	1	3	1
2006	280	6	-	-	-	-	2	3	1
2005	227	2	-	-	-	-	-	-	2

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

*Open Cases*            279  
*(inc Backlog)*

*Previous Quarter*            275

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

**Date report prepared**

06 April 2018



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