

**This report** relates to the unauthorised erection of a building at an existing established lorry park and haulage yard.

The site lies within the open countryside and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map.

**This report follows and takes account of the decision of the Planning Committee on 3<sup>rd</sup> April 2014 to refuse planning permission for this development on the grounds of impact on residential amenity.**

### **RECOMMENDATION**

**It has been concluded that the development has an unacceptable impact on residential amenity having regard to the provisions of the development plan and to all other material considerations, including the imposition of conditions, and as such it is expedient to take enforcement action.**

**That the Head of Legal Services be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure the removal of the building from the site.**

**That the period for compliance be within 1 month of the Notice coming into effect.**

### **Reason for Recommendation**

Planning permission has been refused for this development. The unauthorised erection of the building has occurred within the last 4 years. Having regard to the provisions of the development plan and any other material considerations, it is considered expedient to take enforcement action. A time period of one month for compliance with the notice is considered reasonable.

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

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

Policy CSP1: Design Quality  
Policy CSP4: Natural Assets  
Policy ASP6: Rural Area Spatial Policy

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

Policy N17: Landscape Character – General Considerations  
Policy N19: Area of Landscape Maintenance

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

National Planning Policy Framework (NPPF) (March 2012)

National Planning Practice Guidance (NPPG) (March 2014)

### Relevant Planning History

77/4237/N Outline application for workshop and Lorry Park – Permitted  
05/00356/ELD Certificate of Lawfulness for use of site as a lorry park/haulage yard for the parking, repair and maintenance of heavy goods vehicles, fuel storage and associated offices – Issued

05/01166/FUL	New office building, workshop extension, alteration of two accesses and closure of further access – Withdrawn
06/00214/FUL	New office building, workshop extension, alteration of two existing accesses and closure of existing access – Refused
07/00114/FUL	New offices and replacement workshop – Refused and allowed on appeal
08/00659/FUL	New offices and workshop – Approved
10/00537/FUL	Retention of two static mobile homes for residential use for security staff – Refused and a subsequent appeal against an Enforcement Notice was dismissed and the enforcement notice upheld, however planning permission for one mobile home was granted
11/00543/FUL	Retention of portal framed building/amendments to previously approved application ref. 08/00659/FUL and associated landscaping – Approved
12/00004/FUL	Retention of new basement area for new offices previously approved under planning application 08/00659/FUL – Approved
12/00498/FUL	Retention of mobile home for storage associated with security purposes – Approved
14/00080/FUL	Erection and retention of a canvas covered temporary building for a period of 2 years - Refused

#### Views of Consultees on the recent planning application

The **Environmental Health Division** had no objections subject to a condition requiring no external lighting unless a lighting scheme is approved by the Local Planning Authority.

**Loggerheads Parish Council** objected to the proposal in the strongest terms. The building is already substantially completed and occupied by large vehicles. Objection was made on the following grounds:

- The site is much larger than the area quoted.
- The application form states that there will not be any industrial or commercial processes or machinery within the building so it is queried why it is needed.
- The Design and Access Statement does not mention the completed roof or the fact that the sides are of partial metal construction, not canvas.
- The application refers to temporary workspace and storage but there is no information as to the proposed uses which will have to be strictly conditioned and controlled as the structure is less than 25m from a residential property.
- The building could easily go elsewhere on the site rather than close to an existing residential property and other temporary residential structures within the site.
- There are no other canvas covered temporary structures on the site.
- It appears that this is the first stage in obtaining a permanent consent for a building as the concrete floor will have a useful life considerably in excess of two years.
- This proposal will lead to overdevelopment of the site.
- The proposal will have a significant impact upon the adjacent residential property, West View.
- Approval will require very strict conditioning of the uses to be permitted, working hours and noise levels, all of which will require strict and continual monitoring by Officers.
- This retrospective application is simply a means to try and circumvent the planning process.

The **Highway Authority** had no objections to the proposal.

#### Representations received on the recent Planning Application

One letter of objection was received. Objection was made on the grounds of the impact on the neighbouring residential property from activity, noise and disruption, and impact on property value. It was requested that activity is monitored, kept to a minimum (i.e. for storage purposes only) and that the two year deadline for deconstruction will be enforced.

#### Observations on the breach of planning control

The planning department was advised in January 2014 that a concrete base and steelwork had been installed at the site. Officers wrote to the site owner on 31<sup>st</sup> January 2014 confirming that the works

constitute a breach of planning control and requesting that he submit a planning application within 28 days of the date of the letter. A retrospective application was received on 6<sup>th</sup> February 2014. The application was considered by the Planning Committee on 3<sup>rd</sup> April 2014 and was refused. It is not yet known whether that decision will be appealed against.

### **The issue of whether it is expedient to take enforcement action, and the nature of that action**

The taking of enforcement action in respect of breaches of planning control is a matter that is at the discretion of the Local Planning Authority, although the Authority must demonstrate that it has properly and expeditiously considered the matter. In coming to a decision it must decide whether it is expedient to take enforcement action having regard to the provisions of the approved development plan for the area and all other relevant planning considerations.

Insofar as the provisions of the development plan are concerned the site lies within the Open Countryside and a Landscape Maintenance Area. Your Officer recommended the recent retrospective application for approval subject to conditions for the following reason: -

*It does appear that this additional building is needed to serve the existing level of use of this established business and the site is in a relatively sustainable location within walking distance of Loggerheads. Public views of the building are limited and it is not considered that the development has any significant adverse impact upon the character of the countryside. Given the existing lawful use of the site it is not considered that the building will result in any significant additional harm to residential amenity.*

The Council however refused the application for the following reason:

*The intended use of the building would have an unacceptable impact on residential amenity by virtue of noise, dust and odours due to the proximity of the building to the neighbouring property, West View, Rock Lane. As such, the proposal would be contrary to the aims and objectives of the National Planning Policy Framework (2012).*

In deciding whether it is expedient to take enforcement action, the LPA is required to have regard to the provisions of the approved development plan for the area and to any other material considerations. Guidance on the process to be followed is provided within the NPPF and the recently published National Planning Policy Guidance (NPPG). The NPPG replaces Circular 11/95 – The Use of Conditions in Planning Permissions (1995) which is no longer a material consideration.

The Council has determined that the unauthorised building will have an unacceptable impact on the amenity of the occupiers of West View, Rock Lane, by virtue of noise, dust and odours. Having regard to the provisions of the development plan and any other material considerations, it is considered expedient to take enforcement action.

Given that the building comprises just a steel frame and a canvas roof, with open sides, and given that the business has a large existing workshop building, a time period of one month for compliance with the notice is considered acceptable.

### **Background Papers**

Planning files referred to  
Planning Documents referred to

### **Date report prepared**

8<sup>th</sup> April 2014