

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

SUPPLEMENTARY AGENDA

PART 1 – OPEN AGENDA

- 4a APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF MEADOW WAY, BALDWINS GATE. BELLWAY HOMES (WEST MIDLANDS) LTD. 17/01024/FUL (Pages 3 - 4)
- 6a APPLICATION FOR OTHER DEVELOPMENT – IMPERIAL WORKS, COALPIT HILL, TALKE. MR AL PROPERTY. 18/00066/FUL (Pages 5 - 6)
- 6b APPLICATION FOR OTHER DEVELOPMENT – IMPERIAL WORKS, COALPIT HILL, TALKE. MR AL PROPERTY . 18/00066/FUL (Pages 7 - 8)
- 8a APPEAL AND COSTS DECISION - FORMER SAVOY CINEMA/METROPOLIS, OFF THE MIDWAY, NEWCASTLE. 17/00174/FUL (Pages 9 - 10)
- 12a **URGENT BUSINESS** (Pages 11 - 16)
DELEGATION BY COUNCIL OF ITS DECISION MAKING POWER TO CHESHIRE EAST IN RELATION TO FUTURE A500 WIDENING PLANNING APPLICATION AND POWER TO PROVIDE A SCOPING OPINION FOR THAT DEVELOPMENT

Members: Councillors Burgess, Fear, S Hambleton, Heesom, Northcott, Panter, Proctor



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(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.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE REAR OF THE ASPIRE HOUSING OFFICE OPPOSITE THE CIVIC OFFICES. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
24th April 2018

Agenda item 4

Application ref. 17/01024/FUL

Land off Meadow Way, Baldwin's Gate

Following the preparation of the main agenda report, **two letters of representation** have been received on behalf of two landowners of the application site. Both letters are copies of correspondence sent to Staffordshire Wildlife Trust relating to the extension to the Chorlton Moss Local Wildlife Site boundary. The letters raise questions regarding both the process of designation and the conclusions of the survey work and designation.

Your Officer's comments

As stated in the agenda report, your Officer considers that the issue of the procedure for extending the boundary of the Local Wildlife Site is a separate matter that is not relevant to the determination of this planning application. Regarding the detail of the survey work, your Officer does not consider that the letters raise any points that alter the conclusions in the agenda report.

On this basis the recommendation that is given to the Committee remains that which was provided in the main agenda report

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ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
24th April 2018

Agenda item 6

Application Ref. 18/00066/FUL

Imperial Works, Coalpit Hill, Talke

Since the preparation of the main agenda report the views of the **Highway Authority** (HA) have been received and this resulted in the applicant submitting further information for consideration.

The written comments of the HA have not yet been received in response to the further information that has now been submitted, but discussions have taken place with them. The HA advise that whilst the applicant has addressed some of the issues they initially identified, they still consider that there are significant concerns with the proposed development. Most notably details of the areas of storage, servicing, turning and staff / visitor parking have not been provided. Information with regards to the relocation of the bus stop has also not been provided. Furthermore, the access design has been revised and the Stage 1 Safety Audit does not reflect this. The gates proposed are also not positioned in an appropriate location and HGV's would obstruct the highway if waiting to access the site.

On this basis HA have indicated they maintain that the application still does not provide adequate information for them to remove their objection from a highway safety and transport perspective.

Three further letters of objection have also been received, one accompanied by a series of photographs, which seek to demonstrate the existing highway safety problems caused by the business on the adjacent site and problems in the area. The further objections set out the following additional concerns;

- The volume of traffic be increased in the area,
- Mud and debris on the highway is a concern,
- Who will enforce against any breach of conditions?
- HGV's would need to stop on Coalpit Hill to access the site and may have to reverse into the site,
- Employees regularly arrive at Imperial Works at 5.30 am,
- How can a 2 metre fence reduce noise impact on residential properties,
- The visual impact of the proposals cannot be addressed by conditions,

Officer Response

The applicant has sought to respond to the matters raised by HA but key information is still missing and significant concerns of the proposed development and the impact on highway safety remain. In particular your officers have concerns that there is no suitable location for the relocation of the bus stop and the submission does not demonstrate otherwise. The loss of a bus stop would be detrimental to the sustainability of the area.

Other information is still required before the proposed development can be considered acceptable. Without this information your officers consider that it has not been demonstrated that the development is acceptable and will not result in severe highway safety implications contrary to the guidance and requirements of the NPPF.

The objections and concerns detailed within the additional representations received are noted. Any conditions imposed on any planning permission can be monitored and it is

considered that conditions to control the impact on neighbouring residential amenity levels meet the appropriate tests. Any breach of the conditions will be investigated and appropriate action, including formal enforcement action and prosecution, can be taken if it is expedient to do so.

The RECOMMENDATION is amended as follows;

Refuse for the following reason;

1. In the absence of the following;

- **Details of the areas of storage, servicing, turning and staff / visitor parking;**
- **Bus stop relocation information;**
- **A further updated stage one road safety audit; and**
- **A revised location of the proposed gates.**

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.

Published 24 April, 2018

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
24th April 2018

Agenda item 6

Application Ref. 18/00066/FUL

Imperial Works, Coalpit Hill, Talke

Since the publication of the supplementary report published on the 20th April 2018 the **Highway Authority** (HA) has confirmed that following discussions with the bus operator the site proposed for the relocation of the bus stop as put forward by the applicant is not suitable due to its location and likely highway safety implications that arise due to its position. They also consider that there is no other alternative location for the bus stop.

They conclude that the removal of the bus stop is not viable for local residents or the future viability of the service and is therefore not supported.

Their full advice on this application has been received and has been reported.

Officer Response

In consideration of the further comments of HA your Officer maintains that the loss of the bus stop would be detrimental to the sustainability of the area. The reason for refusal does, however, require amendment to reflect the now confirmed views of the HA in respect of the bus stop.

The RECOMMENDATION is amended as follows;

Refuse for the following reasons;

1. **The proposed development would result in the loss of a bus stop and in the absence of any alternative location nearby that would not give rise to highway safety issues, this would be detrimental to the sustainability of the area and contrary to the guidance and requirements of the National Planning Policy Framework.**
2. **In the absence of details of the areas of storage, servicing, turning and staff/ visitor parking, a further updated stage one road safety audit and a revised location of the proposed gates, 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 contrary to the guidance and requirements of the National Planning Policy Framework.**

ADVANCE SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
24th April 2018

Agenda item 8

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

Since the preparation of the report a local resident has written expressing the view that the Inspector failed to apply the Council's Conservation Policies on the retention of buildings in Conservation Areas, take into account the objections of all the Amenity Societies on the harm to the heritage of the town centre and misdirected himself on the social and economic benefits to the town. The members of the Planning Committee rightly refused this application and in his opinion should appoint expert independent legal advice about challenging this decision.

Members will note the agenda report confirms that upon receipt of the appeal decision consideration was given to whether or not there were 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 was 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.

Members will wish also to note that the time period within which a challenge by the Local Planning Authority can be made is 6 weeks and that period in this case ended on the 6th April.

The recommendation remains as per the agenda report - that the decisions be noted

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A500 WIDENING
LAND NORTH OF DOMVILLES FARM, AUDLEY PARISH

348/241

An application for planning permission is to be submitted, by Cheshire East Council, in the very near future for the dualling and consequent widening of the section of the A500 that lies to the west of Junction 16, and runs between that junction and the Meremoss roundabout to the south of Crewe. The application site lies primarily within the administrative area of Cheshire East but a very small proportion of it (less than one percent of the application site area) lies within the Borough of Newcastle. That section that lies within the Borough would be used for a temporary site compound during the construction works and subsequently for planting and for a permanent surface water attenuation feature.

At the same time Cheshire East Council as Local Planning Authority (LPA) have received a request for what is termed a Scoping Opinion under the Environmental Impact Assessment Regulations. Given that the site of the proposals extends into the Borough, albeit to a very limited extent as described above, the question also arises as to whether Cheshire East Council can give such an Opinion with respect to the land that lies within the Borough.

This matter is brought to the Planning Committee for its views, the decision as to whether or not the Council wishes to delegate to Cheshire East (as an LPA) any of its planning powers (with respect to the determination of a planning application and with respect to the giving of a Scoping Opinion) being matters for only Full Council to determine. The planning application is due to be submitted in early June, the content of the Environmental Statement that will accompany it will be determined by the Scoping Opinion that has been sought, and it is critical that the Borough Council's position, with respect to such delegation, is known before then. Accordingly the matter needs to go before Full Council at its meeting on the 16th May, and today's Planning Committee is the last before that meeting of Full Council and it is considered appropriate that Full Council should be able to be advised of the views of the Planning Committee. Accordingly the item is considered to be one of Urgent Business.

RECOMMENDATIONS

1. That the Planning Committee recommend to Full Council that the Borough Council delegate to Cheshire East Council the discharge of the Borough Council's function under the Town and Country (Environmental Impact Assessment) Regulations 2017 to give a Scoping Opinion, under the above Regulations, with respect to a proposal to widen the A500 between Junction 16 of the M6 and the Meremoss roundabout, Crewe, insofar as it relates to land that lies within the Borough Council's administrative area.

2. That the Planning Committee recommend to Full Council that the Borough Council delegate to Cheshire East Council the discharge of the Borough Council's planning control functions under Section 70(1) (Part III) of the Town and Country Planning Act 1990 to determine, insofar as it relates to land that lies within the Borough Council's administrative area, a cross boundary planning application in relation to the proposed widening of the A500 between Junction 16 of the M6 and the Meremoss roundabout, Crewe.

Reason for Recommendation

Whilst the Council has demonstrated that it can in a co-operative manner determine cross boundary planning applications, in this particular case because such a small amount of land relative to the total area is involved (and the development within the borough comprising only of a temporary works compound/stockpile and then surface water attenuation feature and planting), and the scheme so clearly relates to a strategic priority for both Councils, it is considered appropriate to recommend in this case that Council consider devolving limited planning powers to Cheshire East Council

Background

The Borough Council has been advised of the likely submission of a planning application for the widening of the A500 to the west of Junction 16. A very small part of the application site will lie within the Borough, with the remainder lying within Cheshire East.

At the same time Cheshire East Council have advised that they have been requested to provide a scoping opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

The authority for the giving of scoping opinions by the LPA (under the EIA Regulations) is one that Council has delegated to the Executive Director (Regeneration and Development) and the authority for the determination of planning applications for this scale of development (the application if made to the Borough Council would be considered to be Major Development) is one that Council has delegated ordinarily to the Planning Committee. The giving of comments to an adjoining Local Planning Authority on a proposal for Major Development (other than in certain limited circumstances) also similarly rests with the Planning Committee.

In circumstances where an application crosses the administrative boundary between two LPAs national planning practice guidance indicates that two *identical* planning applications, should be submitted, one to each local planning authority, seeking planning permission for the development of land falling within each local planning authority's administrative area and identifying the relevant area on a site plan.

The guidance goes on to say "the planning fee is paid to the LPA whose area contains the largest part of the application site".

In this case the largest part of the application site lies within the administrative area of Cheshire East, accordingly the application fee is payable solely to Cheshire East. Indeed the area of land involved in the proposal that lies within the Borough is less than 1 percent of the total area involved. A plan attached to this report shows the Borough boundary and the expected application site boundary to illustrate this point.

In the absence of alternative administrative or statutory arrangements, a planning application should be determined by the LPA in whose administrative area the development is to be carried out in. In the case of cross boundary planning applications this can lead to two LPAs making individual planning determinations, imposing differing conditions on the permissions and entering into separate S106 agreements. There is always a risk that this may be counter to the achievement of a coordinated approach to delivering development, although your officers have been able in respect of past cross boundary applications to work closely and positively with the other LPA concerned. Government Guidance encourages joint working between LPAs in relation to the use of their planning powers. Para 178 of the NPPF, albeit in the section on 'plan-making', advises that public bodies have a duty to cooperate on planning issues which cross administrative boundaries, particularly those which relate to strategic priorities.

Pursuant to Section 101(1) of the Local Government Act 1972 a Local Authority may arrange for the discharge of any of its functions by a Committee, a subcommittee, an officer of the authority *or by any other local authority*.

Accordingly the Borough Council could delegate its decision making powers (whilst retaining for the avoidance of any doubt its enforcement powers and its power to determine any other planning applications relating to this site). It could also delegate to Cheshire East Council its power to give a Scoping opinion. The Borough Council will be consulted by Cheshire East on the application regardless and the Planning Committee will be asked to agree comments to be sent to Cheshire East, which Cheshire East would be required, by law, to give consideration to. Similarly Cheshire East would be required, by statute, to consult with Staffordshire County Council as Highway Authority. Officers of Cheshire East have confirmed this to your Officer.

Members may feel uncomfortable with another authority determining an application within the Borough. This is understandable but there are considered to be circumstances here that could justify such approach.

Published 24 April, 2018

First of all the dualling of this section of the A500 is clearly a matter of joint strategic importance. Secondly the fee for any planning application for this particular development would not be received by the Borough Council but would go to Cheshire East, so if the Borough Council were to determine the application it would have to bear such costs entirely. Thirdly and most importantly in your Officer's view, the area of land involved is very small indeed and the development would comprise only of a temporary works compound/stockpile and then a surface water attenuation feature and planting.

With respect to the giving of a Scoping Opinion it makes no sense whatever for the Borough Council to have to give such an Opinion in a case like this. A common sense approach is for the Authority considering the substance of the scheme to provide such an Opinion.

Date report prepared

24th April 2018

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348/241 Consultation with neighbouring Authority (Cheshire East Council).
Widening of the section of the A500 that lies to the west of Junction 16
(EIA scoping opinion 17/3640S)

1:5,000 at A3

Widening continues westward to Meremoor Moss Roundabout, Crewe

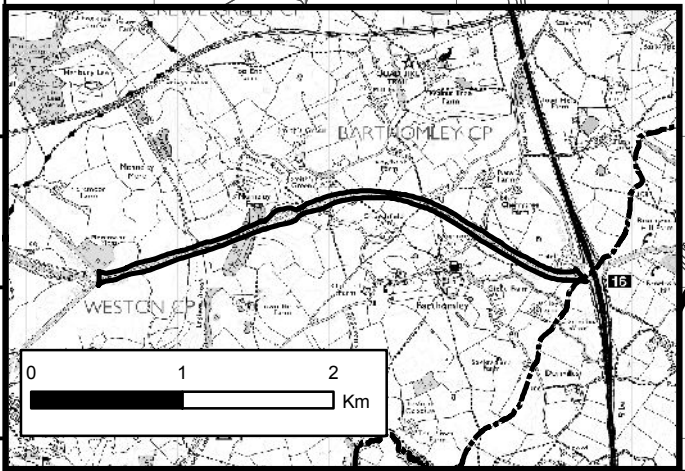
see inset below

Application site

Construction site compound

Borough boundary

M6 motorway



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