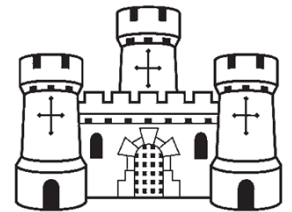


Public Document Pack

Date of meeting Tuesday, 4th December, 2018
Time 7.00 pm
Venue Astley Room - Castle House
Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

Planning Committee

SUPPLEMENTARY AGENDA

PART 1 – OPEN AGENDA

- 4a APPLICATION FOR MAJOR DEVELOPMENT – FORMER BENNETT ARMS, LONDON ROAD, CHESTERTON. MR ANDREW GREEN. 18/00371/FUL (Pages 3 - 4)
- 5a APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF PEPPER STREET KEELE. KEELE HOME LTD. 13/00970/OUT (Pages 5 - 6)
- 6a APPLICATION FOR MAJOR DEVELOPMENT - LAND AT BIRCH HOUSE ROAD, CHESTERTON. ASPIRE HOUSING GROUP. 17/01033/FUL (Pages 7 - 8)
- 7a APPLICATION FOR MINOR DEVELOPMENT - LAND TO THE WEST OF NEWCASTLE ROAD (A53), BLACKBROOK. CARE OF AGENT. 18/00491/FUL (Pages 9 - 10)
- 8a APPLICATION FOR OTHER DEVELOPMENT - MAER HALL MAER VILLAGE, MAER. MR FRADLEY. 18/00821/LBC (Pages 11 - 12)

Members: Councillors S. Burgess, Mrs J Cooper, A. Fear (Chair), H. Maxfield, P. Northcott, S. Pickup, B. Proctor, M. Reddish (Vice-Chair), C. Spence, S Tagg, G Williams and J Williams

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.

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

Contacting the Council:

Switchboard 01782 717717 . Text 07800 140048

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www.newcastle-staffs.gov.uk

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

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FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
4th December 2018

Agenda item 4

Application Ref. 18/00371/FUL

Former Bennett Arms, London Road, Chesterton

Since the preparation of the main agenda report the comments of the **Lead Local Flood Authority (LLFA)** have now been received on the revised Flood Risk Assessment (FRA).

The LLFA continue to object on the grounds that further flood risk investigations and potential mitigation are required. In particular, they say the potential flood risk indicated by the surface water flood map needs to be assessed in relation to the proposed development, with recommendations for mitigation in terms of layout, site and floor levels. They also advise that the proposed development needs to include an appropriate Sustainable urban Drainage Scheme (SuDS) to restrict runoff and provide adequate water quality treatment.

The applicant has responded to the objection indicating that suitably worded conditions and informatives could be imposed to make the development acceptable, in accordance with the guidance of the NPPF. The following conditions are suggested (by the applicant);

- No development shall commence until the proposed levels of the floor slabs of the proposed dwellings have been submitted to and approved in writing by the LPA,
- No development shall commence until a scheme to attenuate and control storm water run-off from the site has been submitted to and approved in writing by the LPA,

Officer Response

The applicant has sought to address the concerns of the LLFA and the revised FRA does identify that further work to progress a Sustainable Urban Drainage Scheme (SUDS) is necessary, provides some details of what that scheme might be, and any approved scheme would need to be the subject of future management. The latter your Officer accepts is a matter that can be appropriately dealt with by the application of an appropriate condition. However, it is considered that without an acceptable SuDS being submitted for comment prior to a decision being made and the flood risk associated with the two culverts, there are still potential flood risk concerns and to permit the proposed development leaving such matters to be dealt with by conditions remains contrary to the precautionary approach advised in the NPPF and policy CSP3 of the Core Spatial Strategy.

The NPPF does advise that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions but in this instance there are still flood risk concerns and there is still no certainty that these concerns can be addressed without the scheme proposed having

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to change significantly to address these concerns. A precautionary approach is therefore advised and justified.

The RECOMMENDATION remains as set out in the main agenda report.

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
4th December 2018

Agenda item 5

Application Ref. 13/00970/OUT

Land off Pepper Street, Keele

If Members are minded to accept the recommendation within the main agenda report it is considered that the opportunity should be taken to rectify an error in the S106 Agreement that has recently been identified.

As set out in the main agenda report, outline planning permission was granted following the completion of a S106 Agreement. The Committee resolved that one of the obligations within the Agreement should be the provision of a financial bond to be held by the Council to be used to fund the works necessary to complete the process of extinguishing the spoil heap fire and reinstating that part of the site affected by such works should the developer fail to do so following commencement of such works. To ensure that this could be achieved it was therefore necessary for the financial bond to be provided by the developer before such remediation works commenced.

Whilst the S106 Agreement does include a requirement to provide such a financial bond (amounting to £1,264,477) the trigger for this is on or before *Commencement of Development*. The term *Commencement of the Development* is defined in the Agreement as “the earliest date upon which a material operation is begun in accordance with the provisions of Section 56(4) of the Act save for the purposes of this Agreement none of the following operations shall constitute a material operation: site clearance, archaeological investigations, site investigation works for the purposes of assessing ground conditions; works of demolition; site decontamination works; and the Remediation Works.” Therefore the remediation works (the extinguishing of the spoil heap fire and reinstatement of the land) does not constitute commencement of the development for the purposes of the Agreement and as such the bond does not need to be provided at the time it is required i.e. when the remediation works have commenced.

It is noted that the remediation works are about to start, if they have not done so already.

Clearly what is in the Agreement is not what the Planning Committee intended when it resolved to grant outline planning permission and as the developer has requested that the Agreement is amended as set out in the main agenda report this presents an opportunity to rectify this error.

The RECOMMENDATION is therefore amended as follows:

That, the S106 Agreement be varied

- a) **by reducing the amount of affordable housing to 6% as requested by the applicant, and that the trigger for reappraisal be amended to 18 months**

from the date of the District Valuer's final report in the absence of substantial commencement being achieved by that date; and

- b) Provision of the financial bond of £1,339,804 (to reflect the latest estimated cost of the remediation works as included in the Viability Appraisal) upon completion of the new Agreement.**

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
4th December 2018

Agenda item 6

Application Ref. 17/01033/FUL

Land at Birch House Road, Chesterton

Further correspondence has been received from the applicant (Aspire Housing) challenging the Council's position on seeking POS contributions, in particular the evidence base and thus the justification for such requests. In particular it is submitted that contributions need to be justified by an up to date assessment of open space, sports and recreation facilities; that the Borough does not have such an assessment publicly available; that such assessments should establish if there are any surplus or deficits in existing open space provision; that development should only be expected to mitigate their own impact and if the evidence demonstrates that there is a surplus of open space then it could be argued, depending on the scale of the proposal that the scheme has no adverse impact on open space and a contribution is not required. The Council is said to have been vague about where the money will be spent and what the money will be spent on. Aspire are asking the Council to reconsider its position and they indicate that if this is not possible they may need to test the principles of the Council's approach through the planning appeals process although this by no means their preference.

Whilst in this particular case it is being recommended that on the grounds of viability less than policy compliant contributions be accepted, the applicant is still being required (if the recommendation is agreed) to enter into a Section 106 that holds open the possibility that in the event of substantial commencement not being achieved, there would then be a requirement for a further appraisal that could in theory then be the basis for policy compliant contributions. Accordingly Aspire still want their concerns about the seeking of POS contributions to be addressed.

Whilst it is the case that the Council has not been able to provide Aspire with a copy of the Audit Database derived from the Open Space Strategy - because this contains sensitive information - information specific to this case has been provided – that Crackley Recreation ground is identified in the Audit as needing improvements to the

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teen elements of the site. It is this element that the contribution, if obtained, would be used to improve. It is not possible or reasonable at this stage to be any more specific than this. It is not considered that the request for the contribution fails either the statutory or the policy tests. The request in this instance, for the reasons set out in the main agenda report at paragraphs 6.4 & 6.5, is justified and CIL Regulation compliant.

The RECOMMENDATION remains as set out in the main agenda report.

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SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
4 December 2018

Agenda item 7

Application ref. 18/00491/FUL

Land to the West of Newcastle Road, Blackbrook

Since the publication of the agenda the applicant has withdrawn the planning application. As there is now no application to determine there will be no discussion of the item by the Committee.

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FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
4th December 2018

Agenda item 8

Application Ref. 18/00821/LBC

Maer Hall, Maer

Since the publication of the main agenda report, the comments of the **Conservation Advisory Working Party (CAWP)** have been received. The Working Party feels that the proposed canopy over the pedestrian gate would be harmful to the setting of the Listed Hall and Gatehouse. They state that the brick piers are simple and appropriate and as such, the canopy has a diminutive effect on the character of this simplicity and it interferes and disturbs the relationship between the buildings.

Officer response

The view of the Listed Hall is already interrupted by the intervening piers and gates and therefore it is not considered that the minor addition of the canopy with the use of appropriate materials would harm the setting or significance of the Listed Buildings.

The RECOMMENDATION remains as set out in the main agenda report.

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