

Public Document Pack

Date of meeting **Tuesday, 22nd January, 2013**

Time **7.00 pm**

Venue **Council Chamber, Civic Offices, Merrial Street,
Newcastle Under Lyme, Staffordshire ST5 2AG**

Contact **Peter Whalan**

Planning Committee

AGENDA

PART 1– OPEN AGENDA

1 Apologies for Absence

2 DECLARATIONS OF INTEREST

To receive Declarations of Interest from Members on items included on the agenda.

3 Application for Minor Development - DX Motorcycles, Swift (Pages 1 - 8)
House, Liverpool Road, Cross Heath. Auto Acceptance
Finance. 12/00770/FUL

4 Application for Minor Development - Audley Community (Pages 9 - 14)
Centre, Nantwich Road, Audley. Audley Medieval Society.
12/00203/FUL

5 Application for Minor Development - New Farm, London Road, (Pages 15 - 20)
Knighton. Brereton Farms. 12/00784/FUL

6 Quarterly Report on Extensions to Time Periods Within Which (Pages 21 - 24)
Obligations Under Section 106 Can Be Entered Into

7 Appeal Decision - 5 Ashcroft Road, Wolstanton (Pages 25 - 26)

8 Appeal Decision - 212 Seabridge Lane (Pages 27 - 28)

9 URGENT BUSINESS

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

10 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 1, 2 and 6 in Part 1 of Schedule 12A of the Local Government Act 1972.

11 Quarterly Report on Progress On Enforcement Cases Where (Pages 29 - 36)
Enforcement Action Has Been Authorised

Members: Councillors Miss Baker, Boden, Cairns, Clarke (Vice-Chair), Fear (Chair), Hambleton, Mrs Hambleton, Howells, Jones, Matthews, Miss Reddish, Stringer, Studd, Sweeney, Williams and Mrs Williams

'Members of the Council: If you identify any personal training / development requirements from the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Committee Clerk at the close of the meeting'

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

DK MOTORCYCLES, SWIFT HOUSE, LIVERPOOL ROAD, CROSS HEATH
AUTO ACCEPT FINANCE. 12/00770/FUL

The Application is for the retention of use of land for car sales within the site of DK motorcycles which has a lawful use of the premises for motorcycle sales; the sale of motorcycle accessories; and the service, repair and MOT testing of motorcycles.

As indicated the car sales use has already commenced on site.

The site is located in the Urban Area of Newcastle under Lyme as identified on the Local Development Framework Proposal Map.

The statutory 8-week determination period expires on 31 January 2013.

RECOMMENDATION

Permit subject to conditions relating to the following matters:-

- (i) **Approved plans/drawings/documents.**
- (ii) **Access, parking, servicing and turning areas.**
- (iii) **No cars to be parked on the front parking area if the temporary permission is implemented at any time.**
- (iv) **Car sales to operate Monday to Saturday only and for the hours that are currently permitted (under planning permission 09/00548/COU.**
- (v) **Continuation of existing one way system around the site.**

Reason for Recommendation

The retention of the use of the land for car sales is considered to represent an acceptable diversification of the existing business and operations of the site that is unlikely to result in significant highways safety concerns or impact on neighbouring residential amenity levels, subject to conditions. The development therefore accords with the guidance and requirements of the National Planning Policy Framework whilst also being in accordance with policies of the development plan and there are no other material planning considerations that would justify refusing the proposed development.

Statement as to How the Local Planning Authority Has Worked in a Positive and Proactive Manner in Dealing With This Application

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

Policies and Proposals in the Approved Development Plan Relevant to This Decision:-

West Midlands Regional Spatial Strategy 2008 (WMRSS)

- Policy QE1: Conserving and Enhancing the Environment
- Policy QE3: Creating a High Quality Built Environment for all
- Policy T7: Car Parking Standards and Management

Staffordshire and Stoke on Trent Structure Plan 1996 - 2011

- Policy D1: Sustainable forms of Development
- Policy D2: The Design and Environmental Quality of Development
- Policy E7: Existing industries
- Policy T12: Strategic Highway Network
- Policy T13: Local Roads

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy

- Policy SP2: Spatial principles of Economic Development

Newcastle under Lyme Local Plan 2011

Policy T16: Development - General Parking Requirements

Other Material Considerations Include:-

National Planning Policy Framework (March 2012)

Relevant Planning History

1997	97/00268/COU	Permit – 16 June 1997 - change of use of part of ground floor area to motorcycle and spares sales – implemented.
2003	03/00511/FUL	Permit in part – 13 February 2004 - change of use of part of ground floor area to motorcycle and spares sales with out complying with Conditions 2 (testing) and 5 (hours of operation of the use) subject to which planning permission 97/00268/COU was granted.- implemented (testing area formed).
2003	03/01056/COU	Change of use of first floor storage area to form a new motorcycle sales area with associated external alterations – permit with same condition as above 24 December 2003 - implemented.
2005	05/01240/FUL	Permit – 28 April 2006 - two storey extension forming additional ground floor sales area for off road motorcycles and first floor accessories shop, together with additional car parking – implemented only insofar that the additional parking referred to has been provided, as has an acoustic fence the subject of a planning condition.
2009	09/00181/COU	Refuse – 21 May 2009 - variation to condition Number 5 of planning permission 97/00268/COU, condition 5 of planning permission 03/00511/FUL and condition1 of planning permission of planning permission 03/01056/COU so as to permit Sunday retail of motorcycles and motorcycle accessories from 11am to 5pm.
2009	09/00548/COU	Permit – 19 November 2010 - variation to condition 5 of planning permissions 03/00511/FUL & 97/00268/COU and condition 1 of 03/01056/COU to allow retail sales of motorcycles and motorcycle accessories from 10:00 to 17:00 hours on Sundays and reduced by one hour during the week through the amendment of opening hours from 08:00 to 09:00 hours on Monday to Saturday (closing time to remain at 18:00 hours).
2010	10/00391/FUL	Permit – 24 August 2010 - variation to condition 3 of Planning Permission 09/00548/COU so that the existing one way system imposed by Condition No.8 of Planning Permission 03/00511/FUL shall remain in operation during all trading hours but no motorcycles shall pass through the control barriers on Sundays and all vehicles that pass through the barrier shall egress via Wilton Street only.

Views of Consultees

The **Highways Authority** raises no objections subject to a condition that the access, parking, servicing and turning areas are provided in accordance with the submitted drawing with the staff and customer parking areas clearly delineated and be retained for the approved use only for the life of the development.

The **Environmental Health Division** raises no objections subject to conditions requested on the previously approved planning application. These were that the use is for a trial approval of 12 months so that the impact of the proposal can be monitored, and motorcycles only being parked in the front car park, appropriately worded signage, and the permanent removal of the hot food take away unit.

Representations

No letters of representation have been received.

Applicant/Agent's Submission

The application is supported by a Planning statement detailing the following key points:-

- DK Motorcycles currently operate a sales, repair and maintenance of motorcycles business. As well as the sale of motorcycles (used and new), DK Motorcycles sell a range of motorcycle parts, accessories, helmets, and clothing products.
- DK Motorcycles also have an established and rapidly growing mail order business, which is mainly conducted over the internet, selling motorcycle parts and clothing to the general public.
- Planning permission only exists at present for the sale of motorcycles and accessories (Sui Generis), and given the extent of car sales on site, permission is required for this additional operation.
- The surrounding area comprises a mix of commercial and residential uses.
- The sale of cars has grown gradually on site over the past 12 months and forms an ancillary part of the wider business operation at Swift House.
- AAF Cars LLP and DK Motorcycles are part of the same group, and over the past 12 months, the business has diversified to offer used cars for sale in addition to the existing motorcycle business.
- The display of used cars for sale is limited primarily to the outdoor display of vehicles, however part of the ground floor of the building (highlighted in green on drawing number AAF1/2-002) is now being utilised as an indoor car showroom, which can accommodate up to 8 vehicles and forms part of the retrospective application.
- Neither business operation operates on Sundays. Deliveries are normally made twice a week to the site (during weekdays) by 12 metre container vehicles, however these are associated with deliveries to DK Motorcycles. Cars are usually delivered to the site via single car transporters.

All of the application documents can be viewed at The Guildhall, and on the Council's website www.newcastle-staffs.gov.uk/planning/dkmotorcycles

Key Issues

The application is for the retention of car sales at DK Motorcycles which is a large commercial premises in use as a motor cycle repair and internal and external motor cycle sales area's set within a large site.

The car sales are operating within the curtilage on existing car parking areas to the side and rear. A section of the existing building is also being utilised for car sales also.

The site has had a number of previous applications for the use of the premises and subsequent variation of conditions but none relation to the sale of cars.

Key issues in the determination of the development therefore are:

- The principle of the change of use
- The impact on the residential amenity of nearby occupiers in terms of noise and air pollution,
- The impact on highway safety, and;
- Enforcement matters.

The principle of the change of use

The application site operates as an established commercial premises with the repair, MOT testing and sale of motorcycles and accessories. The motorcycle sales business predominantly operates internally with the existing car sales being on the frontage and at the rear. A small section within the building is also been utilised for car sales and can accommodate 8 vehicles.

The applicant has detailed within the submission that the sale of cars is a diversification of the business. They also detail that the car sales predominantly rely on passing trade and internet sales.

The NPPF details at paragraph 19 that *"The Government is committed to ensuring that the planning system does everything it can to support sustainable 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."*

Due to the nature of the existing motorcycle and accessories sales use and the nature of the car sales use, it is not considered that the vitality and viability of the town centre would be adversely affected. The diversification of the business is considered to support economic growth of the business which is supported by the NPPF. The principle of the change of use of the land for car sales is therefore considered acceptable in this location.

The impact on the residential amenity of nearby occupiers in terms of noise and air pollution

DK motorcycles is an established business in the Cross Heath area of Newcastle but the area can be characterised as a mixed land use with residential properties in close proximity to both the car park and the main buildings of the site.

The NPPF in paragraph 123 details that "Planning policies and decisions should aim to:-

- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

There is part of the internal and external areas of the premises that are used for motorcycle repair and MOT testing which have restrictions that have been imposed by condition of the previous planning permissions.

Furthermore, temporary planning permission for Sunday trading of motorcycles was given but this has not commenced and the applicant has indicated that due to a change in circumstances it is unlikely to.

A condition of the temporary 12 month permission was that on Sundays no motor cycles should pass through the control barrier, restricting motor cycle parking to the front of the premises (as detailed in the decision of 09/00548/COU and as amended by 10/00391/FUL). As discussed this restriction was for Sunday trading only. The applicant has not applied for Sunday trading of car sales. Therefore there is no conflict with the temporary permission if it were to be implemented in future but a condition ensuring that no cars are parking on the front (if the temporary permission is commenced) is recommended. This would address the objections raised by the Environmental Health Division. Restrictions on hours of operation is also recommended.

It is considered that the sale of cars is an intensification of the business use of the site but one which would not result in a significant increase in noise and disturbance to the locality and in particular neighbouring residential amenity levels in this mixed land use.

Therefore, subject to conditions the proposal would be in accordance with the guidance and requirements of the NPPF.

The impact on highway safety

The previous planning permissions have also placed restrictions on access, egress and vehicle movements around the site with a control barrier to the front side of the site.

The Highways Authority has raised no objections to the proposals subject to a condition that the access, parking, servicing and turning areas are provided in accordance with drawing no. AAF1/2-002 with the staff and customer parking areas clearly delineated and be retained for the approved use only for the life of the development.

Furthermore, a condition requiring the continuation of the existing one way system around the site is also recommended to prevent cars leaving the site via the A34 access point.

Enforcement matters

Paragraph 207 of the NPPF deals with Enforcement and details that effective enforcement is important as a means of maintaining public confidence in the planning system.

A condition of the 1997 permission restricted the site for motorcycles only. Therefore the sale of cars was a breach of this condition and planning control. The Council advised the applicant to submit a planning application and as detailed above the sale of cars from the site does not raise any significant concerns, subject to the recommended conditions. The approval of this application would remedy the breach of planning control.

Background Papers

Planning file

Planning documents referred to

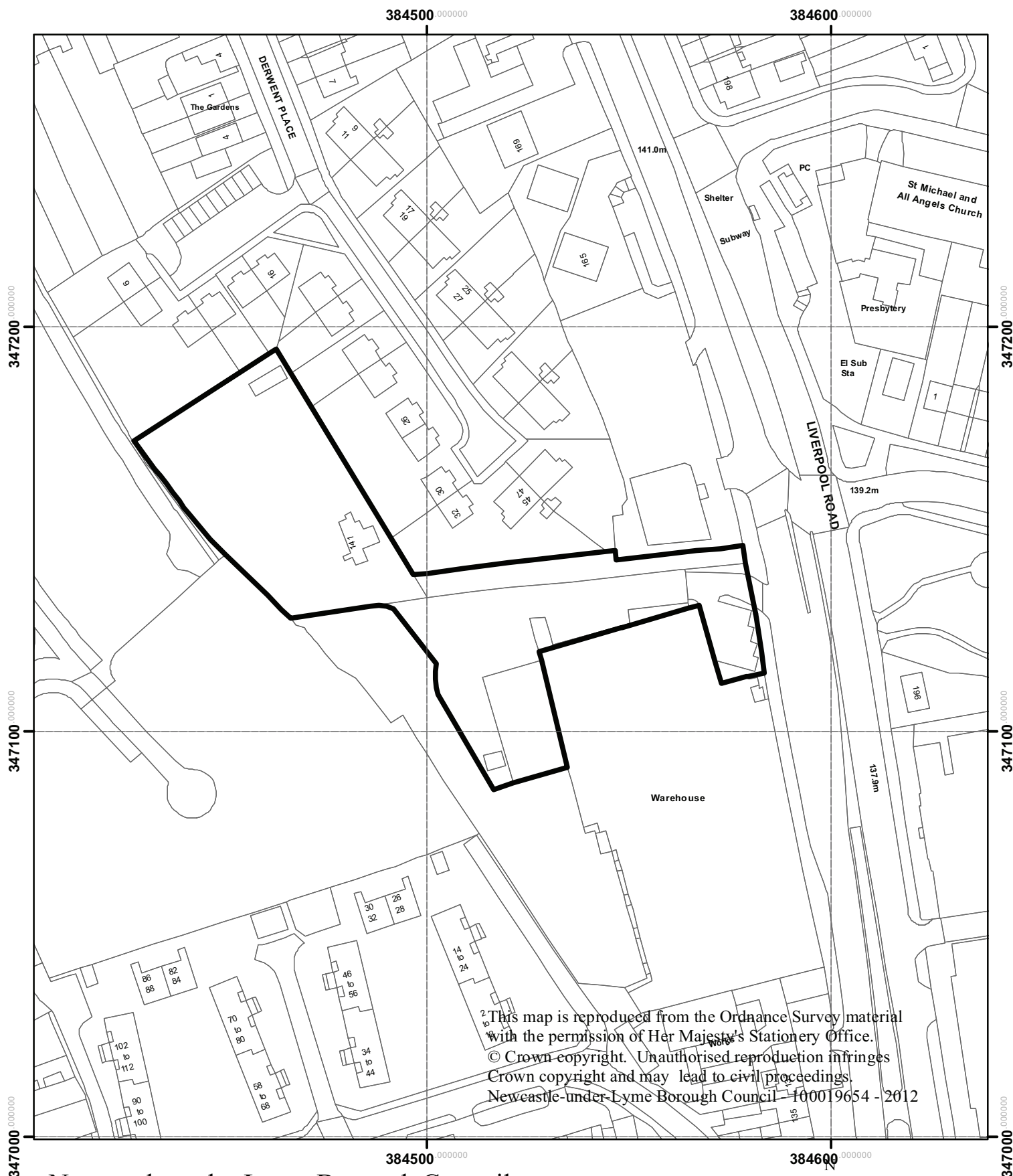
Date Report Prepared

8 January 2013

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D K Motorcycles, Swift House
Liverpool Road, Cross Heath

12/770/FUL



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AUDLEY COMMUNITY CENTRE, NANTWICH ROAD, AUDLEY
AUDLEY MEDIEVAL SOCIETY. 12/00203/FUL

The Application is for full planning permission for a new metal storage container at Audley Community Centre, Nantwich Road, Audley.

The application site is located within the Green Belt and in an Area of Landscape Enhancement as shown on the Local Development Framework Proposals Map.

The 8 week determination period expired on 15 January 2013.

RECOMMENDATION

Permit subject to the following conditions relating to the following matters:-

- (i) Commencement of development.**
- (ii) Approved plans.**
- (iii) Prior approval of the exterior colour of the container.**

Reason for Recommendation

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

Statement as to How the Local Planning Authority Has Worked in a Positive and Proactive Manner in Dealing With This Application

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

Policies and Proposals in the Approved Development Plan Relevant to This Decision:-

West Midlands Regional Spatial Strategy 2008 (WMRSS)

Policy QE1: Conserving and Enhancing the Environment
Policy QE3: Creating a high quality built environment for all

Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011 (SSSP)

Policy D1: Sustainable Forms of Development
Policy D2: The Design and Environmental Quality of Development
Policy D5B: Development in the Green Belt
Policy D4: Managing Change in Rural Areas
Policy NC1: Protection of the Countryside: General Considerations
Policy NC2: Landscape Protection and Restoration
Policy NC19: Conservation Areas
Policy T13: Local Roads

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality

Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt
Policy N17: Landscape Character – General Considerations
Policy N20: Areas of Landscape Enhancement
Policy B14: Development in or adjoining the boundary of Conservation Areas

Other Material Considerations Include:

National Planning Policy Framework (March 2012)

The Secretary of State's Announcement of His Intention to Abolish RSS

The Secretary of State has made it clear that it is the Government's intention to revoke RSSs and the Localism Act 2011, which includes powers to give effect to that intention, received Royal Assent on 15 November 2011. However, pending the making of a revocation order in accordance with the new Act, the RSS remains part of the statutory development plan. Nevertheless, the intention to revoke the RSS and the enactment are material considerations.

Supplementary Planning Guidance

Planning for Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011, formally adopted on 10 May 2001.

Relevant Planning History

09/00713/FUL Permit – 4 February 2010 Proposed repositioning of the existing storage unit & new storage unit.

Views of Consultees

Audley Parish Council - support the application, provided that the container is painted green.

Representations

No representations have been received on this application.

Applicant/Agent's Submission

The requisite application forms and plans were submitted along with a Design and Access Statement. These documents are available for inspection at www.newcastle-staffs.gov.uk/planning/audleycommcen

Key Issues

Full planning permission is sought for a new metal storage container at the Audley Community Centre, Nantwich Road, Audley, which is located within the Green Belt and an Area of Landscape Enhancement, as indicated by the Local Development Framework Proposals Map.

The steel storage container would be sited on the west side of the community centre, towards the north west corner of the existing building and it is proposed to paint it green.

The container would measure 2.3 metres in width by 2.8 metres in length, and be 2.5 metres in height.

The key issues in the determination of the development are:

- Is the proposal appropriate development in the Green Belt?

- The impact of the proposed development on the character of the landscape and visual amenity in general
- The impact on the adjacent Audley Conservation Area
- If inappropriate development do the very special circumstances exist?

Is the proposal appropriate development in the Green Belt?

Policy S3 of the Local Plan presumes against any form of development with certain exceptions. The proposals sought do not fall within any of the categories outlined. Structure Plan Policy D5B does not address this type of proposal.

The National Planning Policy Framework states that new buildings within the Green Belt are not appropriate, unless for one of the exempted development types specified in the framework. The new storage container is not considered to fall within any of the appropriate developments or uses in the Green Belt, therefore the development is considered to be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances.

The case for very special circumstances will be considered later in the report.

The impact of the proposed development on the character of the landscape and visual amenity in general

The NPPF advises at para.61 that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Para. 64 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

SSSP Policy D2 states that development should generally conserve and, where possible, improve the quality of life and the environment and should be informed by, or sympathetic to, the character and qualities of its surroundings, in its location, scale and design.

Policy NC1 of the SSSP advises the countryside will be safeguarded for its own sake and non-renewable and natural resources will be afforded protection. It goes on to advise that new buildings in the open countryside will be strictly controlled. New development should respect the character of the countryside and maintain or improve the environment. Where development is considered acceptable the proposal should include measures for adequate mitigation of, or compensation for, adverse environmental impacts.

The site is within an Area of Landscape Enhancement, as indicated by the Local Development Framework Proposals Map. In these areas, the Council will support, subject to other plan policies, proposals that will enhance the character and quality of the landscape.

The new storage container would be single storey in height and would be of steel construction and proposed to be painted green, to help it to blend with its surroundings.

The proposed new storage container would be sited to the west of the community centre, towards the north west corner of the building. In this location it would be well screened from the wider landscape, and your officers consider that the impact on the landscape enhancement area would be minimal.

Overall, the container is considered to be of an acceptable appearance and sited in a position where it would have a minimal impact on the character of the surrounding area and Area of Landscape Enhancement. The proposal is considered in accordance with Policies D2 and NC1 of the Structure Plan, Policy N20 of the Local Plan and the aims and objectives of the NPPF.

The impact on the adjacent Audley Conservation Area

Policy B14 of the Local Plan states that special regard will be given to the acceptability or otherwise of a developments form, scale and design when related to the character of its setting within a conservation area.

Exceptionally, where proposed development immediately adjacent to the Conservation Area would be likely to affect the Conservation Area adversely, similar constraints may apply.

Policy NC19 of the Structure Plan states that new development within or adjacent to a conservation area should respect, protect and enhance their character and appearance with respect to its height, scale, intensity and materials, and only generate levels of activity which will support their preservation and economic viability.

The proposed storage container would be sited approximately 43 metres outside of the Conservation Area boundary. This distance, coupled with the fact that the storage container would be sited adjacent to the existing community centre, which is a much larger building than the storage container, and separated from the Conservation Area by the community centre car park, it is considered that the storage container would have no impact upon the character and appearance of the adjacent Audley Conservation Area.

If inappropriate development do the very special circumstances exist?

Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.

A case for very special circumstances has been invited from the applicant, however at the time of writing this report no case has been submitted for consideration. However, with the size of the container being small, it would have such a minimal impact upon the wider landscape and Green Belt area that it could be considered to be of a scale small enough to be considered as de minimis and in its context of a community centre and its car park would appear very minor.

In conclusion, it is your officer's opinion that due to the minimal size of the container in terms of its height and capacity, very special circumstances to exist which outweigh the harm caused by inappropriate development in the Green Belt.

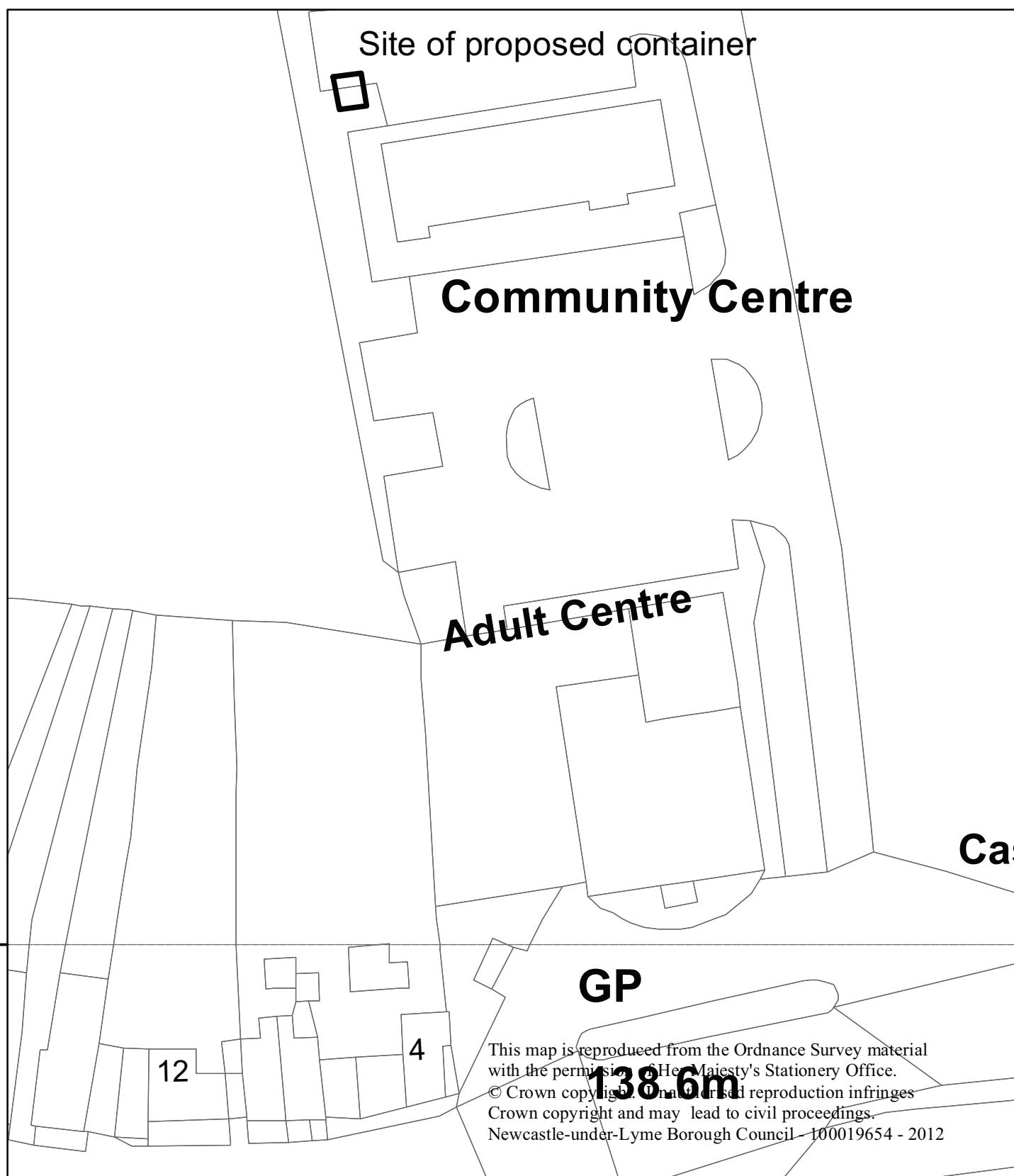
Background Papers

Planning files referred to

Planning Documents referred to

Date Report Prepared

9 January 2013



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NEW FARM, LONDON ROAD, KNIGHTON
BRERETON FARMS. 12/00784/FUL

The Application is for full planning permission for the retention of alterations to an existing agricultural access and laying of hardstanding to provide access to an agricultural building (within Shropshire).

The application site is located within the open countryside in an Area of Landscape Restoration as shown on the Local Development Framework Proposals Map.

This application has been called to planning committee by two local councillors due to concerns of local people and the Parish Council that the access is dangerous to local traffic and local people, the vehicles moving along this track which has already been installed despite local objection is disturbing for those residents. Poorly supplied pictures with the application fail to show the true road dangers of this application and the future use of this site, which overlaps with the Shropshire Authority, has not been fully disclosed.

The 8 week determination period expires on 30 January 2013.

RECOMMENDATION

Permit subject to the following conditions relating to the following matters:-

- (i) The access widened (kerb dropped) to the width of the existing gates within 3 months of the date of this decision.**
- (ii) Retention of the access/parking and turning areas for the life of the development.**
- (iii) The gates shall open inwards away from the highway.**

Reason for Recommendation

The retention of the access as existing would result in an improvement in highway safety terms and the access track is also considered to have no adverse impact upon the surrounding landscape due to its carefully considered position providing access to an agricultural building. The proposal therefore complies with policies D2, NC1, NC2 and T13 of the Staffordshire and Stoke on Trent Structure Plan 1996-2011, policy CSP4 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy as well as Policies N17 and N21 of the Newcastle under Lyme Local Plan and the aims and objectives of the NPPF.

Statement as to How the Local Planning Authority Has Worked in a Positive and Proactive Manner in Dealing With This Application

The application is as a result of an enforcement investigation and the applicant's agent has worked with the local planning authority to provide a submission that would regularise the current breach of planning control. It is therefore considered that the proposals meet the provisions of paragraphs 186-187 of the National Planning Policy Framework.

Policies and Proposals in the Approved Development Plan Relevant to This Decision:-

West Midlands Regional Spatial Strategy 2008 (WMRSS)

Policy QE1: Conserving and Enhancing the Environment
Policy QE3: Creating a high quality built environment for all

Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011 (SSSP)

Policy D1: Sustainable Forms of Development
Policy D2: The Design and Environmental Quality of Development
Policy D4: Managing Change in Rural Areas
Policy NC1: Protection of the Countryside: General Considerations
Policy NC2: Landscape Protection and Restoration
Policy T13: Local Roads

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

Policy CSP4: Natural Assets
Policy ASP6: Rural Spatial Policy

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy N17: Landscape Character – General Considerations
Policy N21: Areas of Landscape Restoration

Other Material Considerations Include:

National Planning Policy Framework (March 2012)

The Secretary of State's Announcement of His Intention to Abolish RSS

The Secretary of State has made it clear that it is the Government's intention to revoke RSSs and the Localism Act 2011, which includes powers to give effect to that intention, received Royal Assent on 15 November 2011. However, pending the making of a revocation order in accordance with the new Act, the RSS remains part of the statutory development plan. Nevertheless, the intention to revoke the RSS and the enactment are material considerations.

Supplementary Planning Guidance

Planning for Landscape Change: Supplementary Planning Guidance to the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011, formally adopted on 10 May 2001.

Relevant Planning History

None relevant to this application within this borough however there are several applications relevant within the administrative area of Shropshire. These are as follows:-

2010	10/02962/AGR	Erection of agricultural building for storage – prior approval not required
2012	12/04347/FUL	Change of use of part agricultural holding to operating centre for two vehicles; retrospective application for retention of access and hardstanding – permit

Views of Consultees

The **Highway Authority** has not provided any comments at this stage but it must be noted that they had no objections to the previous application at Shropshire Council subject to the inclusion of the following conditions;

- The access widened to the width of the gates and surfacing of the access for 5m from the rear of the highway boundary
- The access drive, parking and turning areas should be completed prior to its operation
- The gates shall only open inwards away from the highway

Loggerheads Parish Council objects to the application, and demands that the Borough Council instructs the applicant to restore the land concerned to the condition it was in before the unauthorised works that are the subject of this retrospective application were undertaken. It should be noted that the unauthorised roadway, as constructed, provides access to and from the B 5026 at a dangerous location in a blind spot next to Knighton Railway Bridge.

Shropshire Council has no objections to the application in accordance with the recommendations of Staffordshire County Council Highways Development Control.

Representations

At the time of writing this report no representations have been received however the publicity period does not end until 16 January 2013.

Applicant/Agent's Submission

The requisite application forms and plans were submitted along with a Design and Access Statement.

During the course of the application further highway safety information has been received from the applicant. This illustrates the visibility splays as existing as well as originally prior to the widening being undertaken. Photos illustrating the tractor and trailer length (14.3m) have also been provided as well as the reason for widening the access. The reason specified is that the main agricultural vehicle which uses the access has a large trailer. In total it is 14.3m in length. The authorised lorries with their trailers are only slightly shorter. These vehicles could not use the access when the gate was 4.9m wide without crossing to the wrong side of the road. This was a dangerous situation but did not prevent use. The widening of the access ensures that vehicles do not need to cross the central line to enter or exit the site thereby improving highway safety.

These documents are available for inspection at www.newcastle-staffs.gov.uk/planning/newfarm

Key Issues

As stated above the application is for the retention of alterations to an agricultural access and laying of hardstanding to provide access to an agricultural building. Looking at before and after photos and the position of the existing dropped kerb, it appears as though the access has been increased in width by approximately 3m. Hardstanding has also been put down to create an access track to the agricultural building constructed following an agricultural determination application. The application site is located within the open countryside and an area of landscape restoration as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of the development are:

- The impact upon highway safety of the widened access
- The appearance of the access track on the wider countryside

The impact upon highway safety of the widened access

During the course of the application supplementary highway information has been received from the applicant. This is in the form of visibility splays, photographic information and an explanation of the use of the access.

Having visited the site your officer acknowledges that the visibility out of the site especially in a northerly direction is restricted somewhat due to the raised bridge however this is not considered to be so adverse that it would warrant refusal taking into account the context of the application. The access is an existing historic access that is lawful and the alterations that have taken place have increased the width in a Southerly direction thereby improving the distance between the potential conflict with the raised bridge. It must also be noted that your officer whilst on site assessed the visibility in a Northerly direction and was able to see vehicles coming from some distance away. This was in a car (at a height of approximately 1.45m) which is lower in height than someone sitting in an agricultural vehicle or haulage vehicle (2.5m approx) using the access where visibility would not be as obstructed. As such it is considered that the access as existing provides a betterment in highway safety terms than the original, lawful, access. The case put forward by the applicant for widening the access and the reasoning behind it, appears logical and well considered as a wider splay would improve the angle at which vehicles could access/egress the site which would, as the agent stated, remove the potential for highway conflict associated with going into the wrong carriageway lane.

Due to the topography of the land and the alignment of the road, it is not considered there are any impacts upon the Southerly visibility splay to comment upon.

Although comments have not been made on this specific application at this stage from the Highway Authority it is felt pertinent at this stage to discuss the recommended conditions by them on the Shropshire application. With regards to condition 1, it is considered that the dropped crossing needs to be implemented to allow free passage of vehicles although acknowledgement needs to be made that agricultural vehicles bumping up and

down a kerb is less dangerous in highway safety terms than a normal car. In relation to the surfacing of the access track in a bound material, this is not considered to be necessary in this instance as no new surfacing material has been placed near the entrance and the ground is very compacted due to its historic use. It is therefore considered that this is not necessary in highway safety terms and would also ensure that the access remained more rural in nature rather than a more formalised arrangement which appears more urban. It is considered that this condition should also be completed within a certain time as it is believed that the application approved by Shropshire has already been implemented. Conditions 2 and 3 are felt acceptable and would meet the relevant tests set out in Circular 11/95 and would ensure the local authority had control over any changes that may adversely impact upon highway safety.

The appearance of the access track on the wider countryside

Due to the existence of the existing agricultural building which is lawful, it is considered that the access track as it exists has been carefully considered and it is of a design and scale that limits its impacts upon the wider landscape. The access track has been positioned as near to the boundaries as is feasibly possible to limit the impact upon the wider landscape without creating a much longer and more winding route. The use of hardstanding also prevents the ground surface being cut up in inclement weather which can lead to mud being dragged on to the carriageway – a problem often seen in many rural areas at certain times of the year. It is therefore considered that the access as installed does not impact upon the overarching aims and objectives of policy N21.

Other matters

Concern has been raised as to the inadequacy of this access and the dangers associated with its use however your officer needs to draw your attention to the fact that this is a historic access and irrespective of the decision in this case, the closure of the access could not be secured through enforcement action. The access could and most likely would continue to be used by the applicant as a means of access to his recently erected farm building and in accordance with the permission for use of the site as an operating centre for 2 vehicles. Any potential enforcement action would therefore only serve to reduce the access down to its previous width which as explained above would lead to increased highway safety dangers than present with the widened access.

Background Papers

Planning files referred to

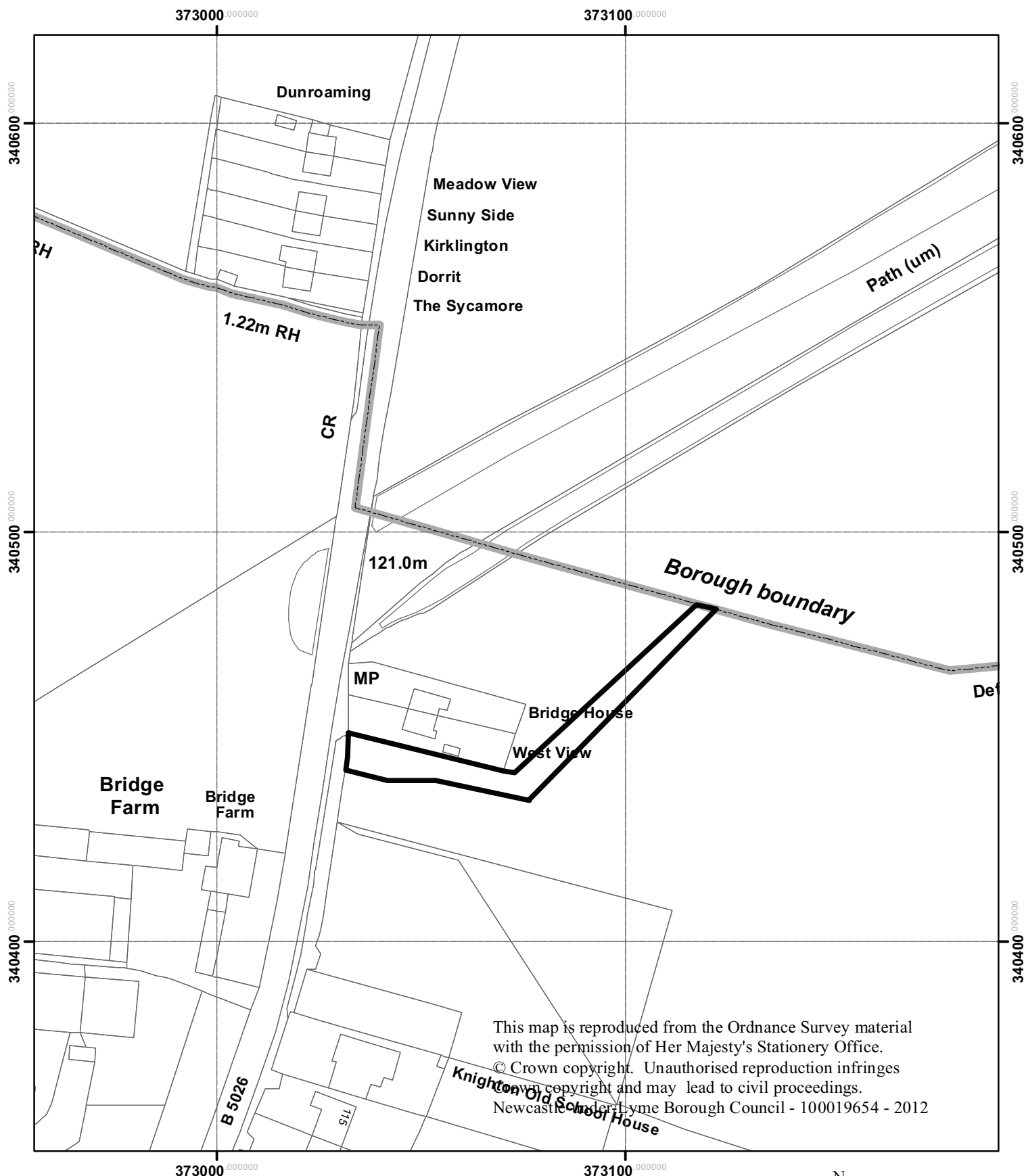
Planning Documents referred to

Date Report Prepared

9 January 2013

New Farm , London Road,
Knighton

12/784/FUL



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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 and Development 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 and Development 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 the Section 106 obligations, and of any similar decisions made by the Chairman and Vice Chairman.

Introduction

For sometime the Committee have usually, when resolving to permit an application subject to the prior completion of a planning obligation, also agreed to authorise the Head of Planning and Development to extend the 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 occur where the Head of Planning and Development was satisfied that it would be unreasonable for the Council not to allow for additional time for an obligation to be secured. In several cases the Head of Planning and Development has been required by the Committee to consult first with the Chairman and Vice Chairman, before making his decision. 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 Officer would provide members with a regular quarterly report on the exercise of that authority.

In the period since the Committee's consideration of the last quarterly report (at its meeting on 23 October 2012) it has been necessary to decide whether or not to exercise this delegated authority on 4 occasions with respect to 4 applications. In most, but not all, cases where an extension has been agreed it has been on the basis that the applicants similarly agree to extend the period within which they cannot appeal against the Council's failure to determine the application, and that should the Head of Planning and Development consider at any time there to have been a material change in planning circumstances he has a right to bring the matter back to the Planning Committee for reconsideration regardless of the stage the Section 106 negotiations have reached at that point.

Details of the cases involved are provided below:-

Application ref 11/00284/FUL – Silverdale Goods Yard (Reliant Building Contractors)

The proposal for the erection of 23 houses at the former Silverdale Goods Yard site came before the Planning Committee on 13 September 2011 (the 13 week period expiring on 10 October) and Members resolved to permit the application subject to the completion of a section 106 Obligation by 3 October 2011. The obligation was not completed by this date and the period was then extended on several occasions

When this matter was reported to the Planning Committee on 6 March 2012 and the Committee was advised that an extension had been agreed until 27 March 2012 it indicated that unless very special circumstances emerged as to why a further extension should be given this date (of 27 March) should not be exceeded, and the Chairman and Vice-Chairman should be consulted by the Head of Planning and Development if he was proposing a further extension.

Since the Committee meeting of 6 March the Head of Planning and Development has agreed, in consultation with the Chairman and Vice-Chairman, a number of extensions of time to complete the obligation the latest date being 28 November 2012.

Due to the length of time since the application was originally considered an updated viability assessment has been sought, received and re-assessed. The legal document required to meet the Committee's resolution contains a number of non- standard obligations requiring the agreement of a number of parties including Staffordshire County Council. These factors have lead to a continued delay in the completion of the document.

No change in the relevant planning policies, such as to justify reconsideration of the matter by the Committee, is considered to have occurred in the interim.

To date the obligation has not been completed and an update on this case will be given in a supplementary report.

Application 12/00127/OUT - Land South Of West Avenue, West Of Church Street And Congleton Road And North Of Linley Road, Butt Lane, (Revelan Developments)

The proposal for residential development on land off West Avenue came before the Planning Committee at its meeting on 8 May 2012 (the 13 week period expiring on 13 June 2012). The resolution of the Committee was that planning permission should be granted subject to the prior securing of various obligations by 6 June. Progress on the Council's side was slow and further extensions of time have been granted until 26 June, 10 August, 10 September and 15 November.

The obligations have not been secured by these dates and this remains the position. The applicants are actively pursuing completion of the obligations, and have been pressing the authority on this matter which should rightly have been progressed and completed. The delay is on the Council's side. No change in the relevant planning policies, such as to justify reconsideration of the matter by Committee, is considered to have occurred in the interim.

An update on this case will be given in a supplementary report.

Application 12/00301/FUL – Plot 34 Eastwood Rise, Madeley Park Wood. (Mr. N. Baskeyfield)

The proposal for a detached dwelling came before the Planning Committee at its meeting on 23 October 2012 (the 8 week period expiring on 12 October 2012). The resolution of the Committee was that planning permission should be granted subject to the completion of a Section 106 unilateral undertaking by 2 November 2012 – a date only 10 days later. The applicant pursued the completion of an agreement rather than an undertaking, albeit with the same obligations and therefore equally acceptable, and by 19 November 2012 an agreement meeting the Committee's requirement and signed by the applicants was received by the Council.

There has been a subsequent delay in obtaining the required authority to complete the agreement, but that has now been given (until 18 January), there having been no change in the interim in the relevant planning policies and in recognition of the prompt action taken by the applicant after the Committee, and formal completion of the agreement by the Council and issue of the grant of permission is now anticipated prior to the Committee meeting.

Application 12/00512/FUL – Former Thistleberry House Residential Home, Keele Road (Taylor Wimpey North Midlands)

The proposal for residential development came before the Planning Committee at its meeting on 13 November 2012 (the 13 week period expiring on 11 January 2013). The resolution of the Committee was that planning permission should be granted subject to the prior completion by 7 January 2013 of a Section 106 obligation securing various obligations

The agreement was not completed by this date. This was not due to a lack of will by the applicant, but rather due to the number of parties to the agreement (4), and in particular the role of the County Council both as landowner and as Highway Authority, and the requirement for those acting on behalf of the parties to be instructed. Taylor Wimpey has also sought to negotiate on a number of points that differ from the "standard" approach and the Councils have had to respond to and deal with these points – which inevitably takes time. By 7 January the agreement had reached the stage that its terms and wording had been agreed to by all

parties, but signed by none. There has been no change in the relevant planning policies in the interim. A brief extension up to 11 January has been agreed. An update on this case will be given in a supplementary report to the Committee.

Date Report Prepared

10 January 2013

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APPEAL DECISION

First Floor Rear Extension at 5 Ashcroft Road, Wolstanton. Mr Malcolm Du Bois

Application Number: 12/00351/FUL

LPA's Decision: Refused under delegated powers on 4 August 2011

Appeal Decision: The appeal was allowed

Date of Appeal Decision: 14 August 2012

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 12/00351/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be the effect of the proposal on the appearance of the dwelling and on the living conditions of neighbours.

In **allowing** the appeal, the Inspector made the following comments:

- The property is a semi-detached house in a residential area which has previously been extended at the rear; full width on the ground floor and in the centre in the first floor.
- The existing first floor rear extension design is to avoid overlooking properties to the rear and to have regard to the attached No 7. Consequently its appearance is unusual. The odd appearance of the proposed extension would therefore not be incongruous.
- The bedroom extension would cut across the 45° line from the centre point of the neighbour's window however the impact on the living conditions through any loss of light or overshadowing would, on balance, be marginal due to the design of the roof slope and lower height of eaves.
- The bathroom window would overlook the private space of No 3 but loss of privacy could be minimised by conditioning for obscure glazing and top opening.
- The Inspector concluded that the proposed development would accord with saved Policy H18 of the Local Plan and with the National Planning Policy Framework.

RECOMMENDATION

That the decision be noted.

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APPEAL DECISION

Detached Dwelling at 212 Seabridge Lane. Mr M Coupe

Application Number: 12/00137/FUL

Recommendation: Approval

LPA's Decision: Refused on 6 June 2012 further to Committee resolution of 30 May 2012

Appeal Decision: Appeal dismissed

Date of Appeal Decision: 18 December 2012

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 12/00137/FUL and the following is only a brief summary.

The Inspector considered the main issue to be the effect that the proposed development would have on the character and appearance of the area.

In **dismissing** the appeal, the Inspector made the following comments:

- The proposal is a resubmission of an identical scheme refused in 2011 on the grounds that the development of the greenfield site would be contrary to the objective of maximising the re-use of previously developed land and would undermine the aims and objectives of national policy. Given that the Council is unable to demonstrate a five year supply of housing land the applicant assumed that a resubmitted scheme would be approved. However it was refused on the ground that the proposal would be contrary to saved Policy H7 of the Local Plan.
- The appellant considered that the subdivision of the plot and size of the dwelling would be commensurate with the character of the area but the information provided showed properties beyond the defined Policy H7 area and consequently gave a misleading impression about the size of the plots and density of development. The majority of plots in the Policy H7 area appear to be larger than the appeal site.
- The submissions of the parties did not explain why the 2011 application was not refused on the additional ground of being in conflict with Policy H7. Neither was there any explanation of what weight was attached to Policy H7 in the determination of applications relating to two dwellings that have recently been constructed close to the appeal site.
- Notwithstanding these decisions, the area covered by the policy retains its special character through the size and spaciousness of the plots, the size and variety of the dwelling types and the pattern of development. The proposed development would erode these characteristics through the subdivision of an existing substantial plot and would be contrary to Policy H7 of the Local Plan.
- The Inspector attached considerable weight to this policy as it is consistent with the National Planning Policy Framework and in particular to paragraph 53 which seeks to resist inappropriate development of residential gardens that have been identified as having special character.
- The Inspector considered that the appeal site is in a sustainable location and despite the absence of a five year supply of deliverable housing sites and the presumption in favour of sustainable development these factors did not outweigh the weight attached to Policy H7.

RECOMMENDATION

That the decision be noted.

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By virtue of paragraph(s) 1, 2, 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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