

Public Document Pack

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| Date of meeting | Tuesday, 23rd October, 2012 |
| Time | 7.00 pm |
| Venue | Council Chamber, Civic Offices, Merral 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 MINUTES OF PREVIOUS MEETING** (Pages 1 - 4)
To receive the minutes of the previous meetings held on 11 September 2012.
- 4 Application For Minor Development - Plot 34, Eastwood Rise, Madeley Park Wood. Mr N Baskeyfield. 12/00301** (Pages 5 - 12)
- 5 Application For Other Development - 123 Liverpool Road, Cross Heath, Newcastle. Mr S Sritharan. 12/00475/FUL** (Pages 13 - 20)
- 6 Quarterly Report on Extensions to Time Period Within Which Obligations Under Section 106 Can Be Entered Into** (Pages 21 - 22)
- 7 Appeal Decision - 77th Audley Scout Group, 72-74 Wereton Road, Audley** (Pages 23 - 24)
- 8 Appeal Decision - Keele Golf Centre, Keele Road, Keele** (Pages 25 - 28)
- 9 URGENT BUSINESS**
To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

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.

PLANNING COMMITTEE

Tuesday 11 September 2012

Present:- Councillor A Fear – in the Chair

Councillors Miss Baker, Boden, Cairns, Clarke, Hambleton, Mrs Hambleton, Howells, Jones, Matthews, Miss Reddish, Stringer, Studd, Sweeney, Williams and Mrs Williams

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. APPLICATION FOR MINOR DEVELOPMENT - CHANGE OF USE OF LAND THE KEEPING OF HORSES, ERECTION OF TIMBER STABLE BLOCK COMPRISING TWO STABLES, TACK ROOM AND HAY STORES AND A NEW ACCESS AND TURNING/PARKING AREA. LAND OPPOSITE WYNBROOK, WERETON ROAD, AUDLEY. MR P LOMAX. 12/00393/FUL

Resolved:- That permission be granted subject to conditions relating to the following matters:

- (i) Commencement of the development.
- (ii) Plans referred to in consent.
- (iii) Materials to be utilised (hard landscaping, facing and roofing materials).
- (iv) External lighting.
- (v) Means of storing and disposing of stable wastes.
- (vi) Surfacing of the access.
- (vii) Parking and turning areas.
- (viii) Visibility splays.
- (ix) Set back of any gates.
- (x) Tree and hedge protection plan for the construction phase.
- (xi) Non commercial use only.
- (xii) No storage, as opposed to parking when visiting, of horse boxes and similar.
- (xiii) Jumps and similar features.

4. APPLICATION FOR MINOR DEVELOPMENT - DEMOLITION OF EXISTING CLUB BUILDING AND ERECTION OF 9 DWELLINGS AND CONSTRUCTION OF TWO NEW SINGLE PLOT DRIVES. THE CLUB AT NEWCHAPEL, PENNYFIELDS ROAD, NEWCHAPEL. MR K HUMPHRIES. 12/00271/FUL

Resolved:- That permission be granted subject to conditions relating to the following matters:-

- (i) Standard Time limit.
- (ii) Approved plans/drawings/documents.
- (iii) Approval of all external facing and roofing materials.
- (iv) Approval of tree survey and tree protection measures.
- (v) Landscaping scheme.

- (vi) Details of boundary treatments.
- (vii) Construction management plan and method statement including construction hours and dust mitigation measures.
- (viii) Contaminated land.
- (ix) Approval of recyclable materials and refuse storage.
- (x) Details of design measures to achieve acceptable internal noise levels in dwellings.
- (xi) Road specification details.
- (xii) Surfacing details of proposed access drives.
- (xiii) Restriction of the use of proposed garages.
- (xiv) Submission of scheme to prevent surface water run-off.
- (xv) Highway dropped crossing specification.
- (xvi) Removal of properties' permitted development rights on identified plots.

5. ETRURIA VALLEY ENTERPRISE AREA - DRAFT SUPPLEMENTARY PLANNING DOCUMENT. STOKE-ON-TRENT CITY COUNCIL

The Borough Council had been consulted by the City Council on a draft Supplementary Planning Document for the remaining undeveloped area of Etruria Valley. The draft Supplementary Planning Document covered an area of vacant, derelict and industrial brownfield land covering approximately 39 hectares (ha) (a plan of the site would be on display at the meeting). A mix of uses including employment, and housing were proposed together with a new highway access from the A500 Wolstanton junction. The draft Supplementary Planning Document had been prepared by the City Council with guidance from the Highways Authorities and input from landowners and other statutory consultees.

The draft Supplementary Planning Document (SPD) set out the planning strategy and development principles for the Etruria Valley site based on the planning policy framework set out in the Newcastle-under-Lyme and Stoke-on-Trent Joint Core Spatial Strategy. Once formally adopted, the Supplementary Planning Document would be considered as a material consideration when assessing future planning applications for the site.

The Committee expressed concerns regarding the proposals and amended the recommendation to read as follows:

Resolved:- That the City Council be informed that the Borough Council are unable to support the draft Supplementary Planning Document until clarification is made over the impact of the new A500 link on the wider road network in Newcastle Borough and until there is clarification of the different use categories in the area of development. It is also recommended that Stoke-on-Trent City Council clarify the rationale for promoting the site ahead of any other out of centre locations for office development and make it clear that they will not promote a site ahead of other out of centre sites located in neighbouring authorities.

6. APPEAL DECISION - MAERFIELD GATE FARM

Resolved:- That the decision be noted.

7. APPEAL DECISION - 17 ST SAVIOUR'S STREET, BUTT LANE

Resolved:- That the information be received.

8. TREACLE ROW, PARKSITE, SILVERDALE. 12/00171/207C2

Resolved:- (a) That any decisions relating to this item be deferred until confirmation had been received regarding the legal situation.

(b) That officers provide information at the next meeting regarding the origins of the erection of the fence.

A FEAR
Chair

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Agenda Item 4

PLOT 34, EASTWOOD RISE, MADELEY PARK WOOD
MR N BASKEYFIELD. 12/00301/FUL

The Application is for full planning permission for the erection of a detached dwelling on the edge of the development called Madeley Park Wood.

The site lies within the open countryside and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map. It extends to almost 0.5 hectare.

The statutory 8 week period for the determination of this application expired on 12 October 2012.

RECOMMENDATIONS

(a) That subject to the securing, by 2 November 2012, of a unilateral undertaking ceding any right to construct a bungalow on this site pursuant to planning permission TP3226;

Permit subject to conditions relating to the following:-

- (i) Three year time limit.**
- (ii) Approved Plans.**
- (iii) Materials as specified or otherwise agreed.**
- (iv) Implementation of landscaping scheme.**
- (v) Root Protection Area Plan.**
- (vi) Arboricultural Impact Assessment.**
- (vii) Provision of parking and turning areas.**
- (viii) Location of soakaways/septic tank.**
- (ix) Drainage details.**

(b) That in the event of such an undertaking not being secured within the timescale indicated that the Development Control Manager be given delegated authority to refuse the application on the grounds that without such an undertaking the possibility of two dwellings being built upon the plot would exist and that would be contrary to a number of policies on residential development and development within the countryside or, if he considers it appropriate, to extend the period of time within which the unilateral can be secured.

Reason for Recommendation

Although the proposal conflicts with current policy guidance relating to development within the countryside and with current policies on housing provision, as there was in 2007, there is a fallback position available to the landowner in the form of an extant permission without time limit for a bungalow on the site and there are no other material considerations which would justify a refusal of planning permission. Given the size of the site and the possibility that it might be subsequently claimed that permission still exists for a further dwelling on the site it is recommended that a planning obligation be used to avoid this occurring. There is no substantive basis for coming to a different view on this application from that which was reached previously.

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

West Midlands Regional Spatial Strategy

- Policy QE3: The Conservation, Enhancement and Restoration of the Region's Landscape
- Policy CF2: Housing beyond the Major Urban Areas
- Policy CF3: Levels and distribution of housing development

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 D4: Managing Change in Rural Areas
- Policy H11: Housing in Open Countryside

Policy T1A: Sustainable Location
Policy NC1: Protection of the Countryside: General Considerations
Policy NC2: Landscape Protection & Restoration
Policy NC13: Protection of Trees, Hedgerows and Woodlands

Newcastle under Lyme Local Plan 2011

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N2: Development and nature conservation - site surveys
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees
Policy N19: Landscape Maintenance Areas

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

Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

Other Material Considerations Include:

Relevant National Planning Policy

National Planning Policy Framework

Supplementary Planning Guidance

Space Around Dwellings (July 2004)

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.

Relevant Planning History

| | | |
|------|--------------|--|
| 1963 | TP1721 | Permit – residential development. |
| 1964 | TP3226 | Permit – proposed bungalows, roads and sewers Plots 24-47, 72-76. |
| 2001 | 01/00856/PLD | Permit – Certificate of Lawful Use or Development for Plot 32. |
| 2002 | 02/00068/PLD | Permit – Certificate of Lawful Use or Development for Plot 33. |
| 2002 | 02/00310/PLD | Permit – Certificate of Lawfulness of proposed erection of dwelling house in accordance with planning permission TP3226. |
| 2007 | 06/1088/FUL | Permit – detached dwelling. |
| 2010 | 06/1088/EXTN | Permit – application to extend the time limit for implementing planning permission 06/1088/FUL for detached dwelling. |

Views of Consultees

The Highway Authority has no objections to the proposal subject to a condition relating to the provision of the parking and turning areas

Whitmore Parish Council has no objection to this application however they have stated that careful consideration be given to drainage and sewage disposal for the proposed property as part of the site becomes heavily water logged in wet weather.

The **Environmental Health Division** has no objections to the proposal subject to an informative relating to importation of waste materials to facilitate construction. They have also specified that the applicant be made aware of comments made by them in 2006.

The **Landscape Development Section** have no objection to the proposals subject to conditions relating to the following:-

- Plan relating to Root Protection Areas
- Arboricultural Impact Assessment

Representations

6 neighbour notification letters were sent out and the application was advertised by way of a site notice. No representations were received.

Applicant/Agent's Submission

A Design and Access Statement has been submitted. A summary of the points made is as follows:

- The design of the dwelling has been influenced by the surrounding residential properties approved by 06/1088/FUL.
- There is a significant cover of mature trees covered by a group preservation order.
- The layout has been determined by the form and layout of the site, its levels and tree location.
- The landscaping will be formal gardens and semi mature trees.

An Ecological Survey Report originally submitted as part of 06/1088/EXTN was also submitted. An extended phase 1 habitat survey and ecological scoping report was then also submitted due to the out of date nature of the ecological survey report. The most recent report highlighted that there should not be any adverse impact upon protected wildlife or vegetation as long as the development does not encroach upon the woodland area and semi-mature/mature trees on site. These documents are available for inspection at the Guildhall, and on www.newcastle-staffs.gov.uk.

Key Issues

Full planning permission (06/1088/FUL) was granted in 2007 for a detached dwelling on this site and this was later granted a new planning permission (06/1088/EXTN) to extend the timeframe to implement the permission. Although there has been a change in planning policy since the previous decisions with the introduction of the National Planning Policy Framework (NPPF) in place of previous national planning policy guidance/statements it is clear based upon the previous decisions that policy is not the determining factor in this instance the more significant factor is the existence of a fall back position.

The previous planning policy framework did not support a new dwelling in this location and there is no policy basis within the new NPPF that would support a new dwelling in this location either. The acceptability of the principle of this proposal relates back to a permission in 1964 (TP3226) and a subsequent certificate of proposed lawful development granted in 2002. This was issued on the basis that application TP3226 which granted permission for the erection of bungalows is extant without time limit. Your officer is not aware of any case law or rulings since the application 06/1088/EXTN was granted on 24 May 2010 that would alter the view on the principle of the development.

The impact of a two-storey dwelling on the site was previously assessed in terms of impact on the street scene and on the surrounding landscape, impact on residential amenity, impact on trees, and highway safety and considered to be acceptable. There has no material change in planning circumstances to justify a different conclusion at this time however to assist the consideration of the application these matters will be addressed below.

Impact on the Street Scene

The area is characterised by large modern properties of varying styles. Eastwood Rise slopes steeply and several properties are split level and are built into the hillside. There is a mix of bungalows and two and three storey dwellings therefore. The proposed dwelling would be two-storey and would be relatively simple in its

design. It would be sited centrally within a large plot and is surrounded by extensive mature landscaping. The impact on the street scene would not be significant therefore.

As previous conditions relating to materials and landscaping have been approved for this scheme previously and the same information has been proposed in this location, it is considered that these details are acceptable. Compliance conditions in this regard would therefore be included.

Landscape impact

The site is within a Landscape Maintenance Area as designated in the Local Plan. Policy N19 of the Local Plan states that within such areas it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape.

The site is screened from the surrounding countryside by mature landscaping from most directions and would be seen in the context of the existing established development at Madeley Park Wood. Therefore it is not considered that the proposed dwelling would harm the character or quality of the landscape so as to justify a refusal, particularly in the context of the previous permissions on this site.

Residential amenity

Eastwood Rise and the access to the site slopes down steeply and the dwelling would be sited on levelled land in the centre of the site. The properties to either side are raised up above the site of the proposed dwelling and they are a significant distance away. It is not considered that there would be any significant impact on the privacy of the neighbouring properties therefore.

Regarding impact on views, the planning system does not seek to protect a particular view a property may currently enjoy across someone else's land.

Impact on trees

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. Where appropriate, developers will be expected to set out what measures will be taken during the development to protect trees from damage.

There are a large number of mature trees within the application site and the trees to the north-east of the site are protected by TPO T7/8. Whilst it is proposed to remove three trees at the entrance to the site, the vast majority will remain. The Landscape Development Section is satisfied that the proposal does not raise any adverse issues in respect of impact on these trees.

Highway safety

Access to the site is via an existing driveway off Eastwood Rise. A detached double garage is proposed and sufficient parking and turning areas would be provided. It is not considered that the development would have an adverse impact on highway safety and as such, a refusal on highway grounds would not be sustainable.

Other matters

The up to date phase 1 habitat survey and ecological scoping report indicate that no adverse impact upon protected species or wildlife would ensue as a result of the proposals as long as the development does not encroach upon the woodland area and semi-mature/mature trees. The landscape section have also raised no objections to the proposal subject to the inclusion of conditions relating to root protection areas and an arboricultural impact assessment. The development is therefore felt to be acceptable in this regard.

Due to the existence of an extant permission on the site which could potentially lead to a further dwelling on the site, it is considered necessary to request a legal agreement to prevent this. This is something that has been done as part of the previous approvals and it would protect the authority from further development in an intrinsically unsustainable location. An appropriate timeframe would be given to the applicant to provide this.

Background Papers

Planning file

Planning documents referred to

Date Report Prepared

9 October 2012

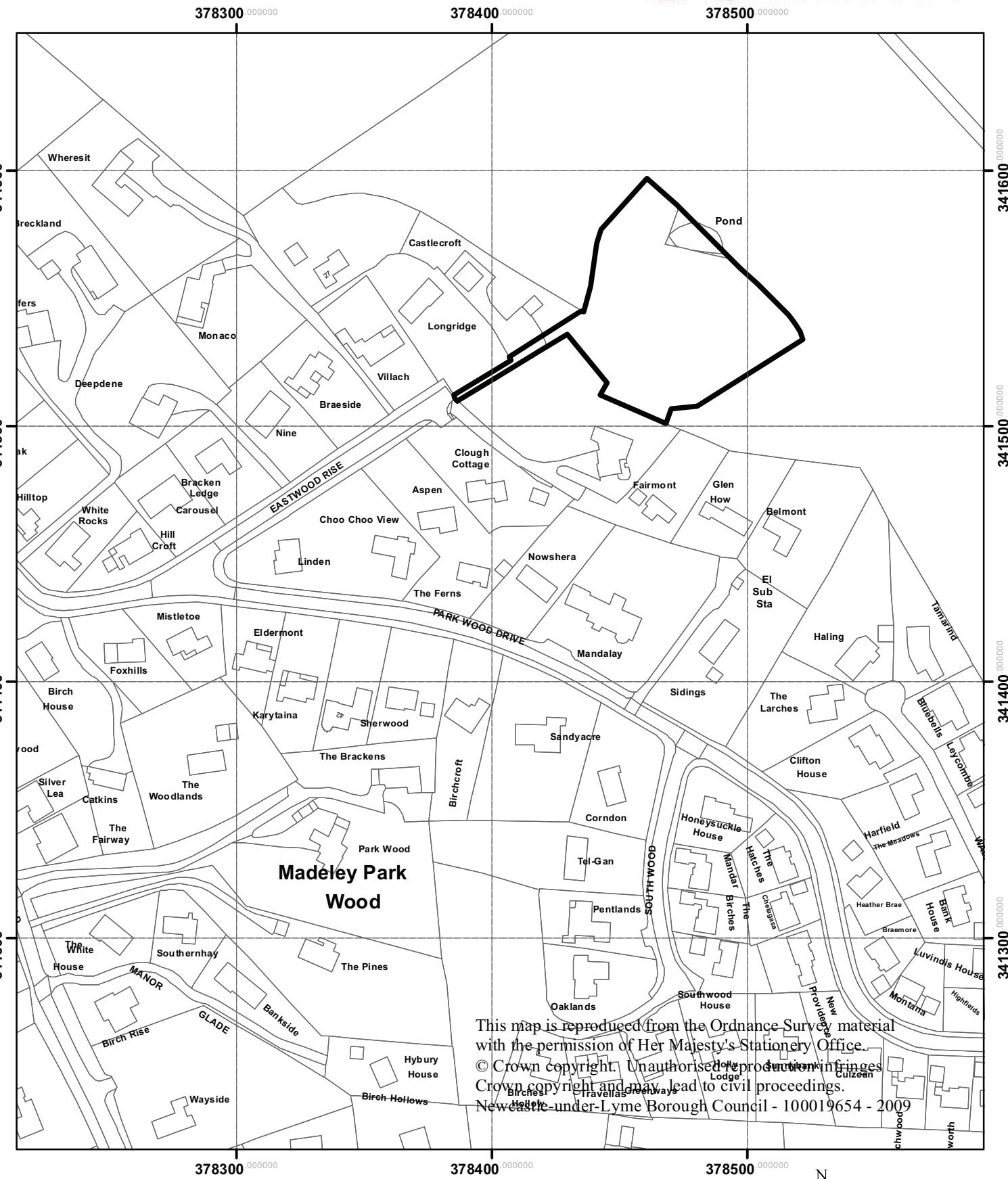
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Plot 34 Eastwood Rise, Madeley Park Wood

12/301/FUL



NEWCASTLE-UNDER-LYME BOROUGH COUNCIL



Newcastle under Lyme Borough Council
Planning & Development Services
Date 23.10.2012

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Agenda Item 5

123 LIVERPOOL ROAD, CROSS HEATH, NEWCASTLE
MR S SRITHARAN. 12/00475/FUL

The Application is for full permission for the change of use from a Doctors surgery, Class D1 of the Use Classes Order, to a use falling within Class A3/A5 hot and cold food restaurant/takeaway. A single extract duct is also proposed on the rear elevation, the bricking up of a window on the frontage and the introduction of a door on the side elevation.

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

The application has been called to Committee by two Councillors for decision due to residents concerns over highway safety and anti-social behaviour. These premises are between Roberts Avenue and Hassam Avenue, which are both extremely busy junctions. There is no parking to these premises. There is a pedestrian gap right outside these premises which is used by locals opposite and nearby. The entrance to Kentucky Fried Chicken cannot be seen when cars are parked on this stretch of highway and make it extremely dangerous for pedestrians. There is an off license next door whose license is currently under review by the police and trading standards. There is always anti-social behaviour outside these premises due to the dependent drinkers who come up from the town for cheap drinks. The flue extraction will be unsightly and will be close to residential properties.

The statutory 8 week period for the determination of this application expires on 24 October 2012.

RECOMMENDATION

Permit subject to conditions relating to the following matters:-

- (i) Standard Time limit.
- (ii) Approved plans/drawings/documents.
- (iii) Hours of use restricted to 9am to midnight on Monday to Saturday, and 9am to 11.30pm on Sundays and bank holidays.
- (iv) No deliveries or waste collection before 7am and after 11pm on any day.
- (v) Prior approval of fume extraction system, implementation prior to use commencing and maintenance thereafter.
- (vi) Prior approval of refrigeration and air conditioning plant.
- (vii) Prior approval of grease and food traps.
- (viii) Prior approval of refuse storage and collection arrangements.
- (ix) Prior approval of arrangements for the collection and disposal of litter resulting from the use.
- (x) Restriction on occupation of the flat above.
- (xi) Provision of staff parking to the rear.
- (xii) Prior approval of appearance and colour of external flue to fume extraction system, and implementation in accordance with the approved details.

Reason for Recommendation

Subject to conditions, it is not considered that there would be any significant adverse impact on residential amenity. Whilst no on site customer parking is proposed it is not considered that highway danger would arise and as such it is not considered that an objection could be sustained on the grounds of impact on highway safety. Subject to a condition requiring the finished colour of the proposed extract flue and matching materials for the window to be bricked up it is considered that the proposal will not result in any visual harm. The proposal accords with Policies D1, D2 and TC4 of the Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011, Policy R15 of the Newcastle-under-Lyme Local Plan 2011 and the aims and objectives of the National Planning Policy Framework 2012.

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

West Midlands Regional Spatial Strategy 2008 (RSS)

Nil

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 T12: Strategic Highway Network

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

Strategic Aim 5: To foster and diversify the employment base;
Strategic Aim 7: To help Newcastle Town Centre to continue to thrive;
Policy SP1: Spatial Principles of Targeted Regeneration.
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhood Area Spatial Policy.
Policy CSP1: Design Quality

Newcastle under Lyme Local Plan 2011

Policy R15: Non-retail uses in District Centres and other Groups of Shops
Policy T16: Development – General Parking Requirements.

Other Material Considerations Include:

National Planning Policy

National Planning Policy Framework (NPPF) (2012)

Supplementary Planning Guidance/Documents (SPGs/SPDs)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (Nov 2010)
Hot Food Takeaways (February 1996)

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.

Relevant Planning History

| | | |
|------|--------------|--|
| | N16861 | Permit – change of use of premises to ground floor waiting room and doctor's surgery (which is use class D1) and first floor living accommodation. |
| 1992 | 92/00198/FUL | Permit – extensions and alterations to existing surgery. |
| 2003 | 03/00132/FUL | Permit - security shutter. |
| 2010 | 10/00573/COU | Refuse – change of use from medical surgery (D1) to shop (A1). |

Views of Consultees

The **Environmental Health Division** has no objections to this application subject to the following conditions:-

- works of demolition and construction;
- hours of use and deliveries;
- restriction on occupancy of flat above;
- fume extraction;
- air cooling/air extraction equipment;
- prevention of food and grease debris from entering the drainage system;
- refuse storage, waste collections and deliveries; and litter disposal and collection arrangements.

The **Highway Authority** has no objections subject to a condition being included on any approval that the parking area off Roberts Avenue being retained for staff parking for the life of the development. They consider given the existing use of the site and that there is a Newsagents/Off License operating in the adjacent property which is open throughout the day into the lay evening, this proposal will be difficult to resist on highway grounds. They further advise that no contribution to NTADS is being sought as the proposed use will not generate sufficient additional trips onto the highway network within the PM peak given the permitted use of the site as a Doctor Surgery.

The views of the **Police Architectural Liaison Officer** have been sought and any comments received will be reported.

Representations

Three letters of objection have been received raising the following concerns:-

- Amount of noise, people etc that the proposed use will attract.
- Already problems with smells from KFC and the proposal will increase odours.
- There is no need for more takeaways.
- Since KFC opened traffic has increased causing the use of the trade entrance and extra traffic in Hassam Avenue. The proposal will cause congestion due to parking on the dual carriageway and could affect the nearby crossing.
- Parking will take place in nearby streets causing extra problems.
- KFC has lead to an increase in litter and antisocial behaviour which will get worse as a result of the proposal.

Applicant/Agent's Submission

A Design and Access Statement has been submitted the main points of which are set out below:-

- Opening hours would be 10.00am – 4am, closing would probably be earlier on Sundays and Bank Holidays.
- The kitchen and flue would be located in the single storey rear outrigger; the flue would accordingly be as far as possible for the first floor residential space and would be designed, manufactured and installed by a commercial ducting company.
- Access to the flat would be changed from internal to from the side alley.
- One of the shop front windows is to be infilled with matching brickwork and a new shop-front fitted.
- Parking would be restricted to local side streets, it is anticipated that much custom would be on foot.

This document is available for inspection at the Guildhall and on www.newcastle-staffs.gov.uk

Key Issues

The application is for the change of use of a vacant doctor's surgery to a restaurant/takeaway falling within Classes A3/A5. The property is one of a semi-detached pair on the A34 Liverpool Road dual carriageway. The proposal involves the bricking up of a large window on the frontage of the property, the introduction of the doorway on the side elevation to gain access to an existing flat at first floor, and the installation of a single extract duct to the rear elevation.

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

- Is the principle of the change of use acceptable?

- Would the proposal cause harm to the occupiers of neighbouring properties?
- Would the proposal be detrimental to highway safety?
- All the alterations to the property visually acceptable?

Is the principle of the change of use acceptable?

The proposed use is located in a group of 3 buildings between Roberts Road and the site of a fast food restaurant (Kentucky Fried Chicken). The ground floor of the application site has for a long time been vacant, before that it was in use as a doctors' surgery. The neighbouring premises are in retail use; the adjoining semi is a general/ grocery/off-licence store and the adjacent detached property is a bed store.

The A34, Liverpool Road, is characterised by a mixture of uses including a number of commercial uses further along its frontage including shops, takeaways and motor-car services, intersperse with some residential.

As the site is one of a group of three buildings and not all are currently in retail use the proposal will not conflict with Policy R15 of the LP and there are no specific policies that are relevant to the consideration of the proposed use. Overall it is considered that the introduction of a further hot food takeaway would acceptable in land use terms.

Would the proposal cause harm to the occupiers of neighbouring properties?

Supplementary Planning Guidance on Hot Food Takeaways gives advice on the suitability of this type of use in different areas. As indicated above, the property is within a mixed commercial and residential area and in considering the advice in the SPG it is considered that the site falls within Category C2 of that Guidance – a mixed commercial area where hot food takeaways are not ruled out.

The applicant has indicated that the intended opening hours are up to 4am on most days, however in line with recommendations of the SPG the opening hours of the use should be restricted to no later than midnight on Monday to Saturday and 11.30 pm on Sundays and Bank Holidays. It is considered that by conditioning such opening hours there will be no adverse effect to the living conditions of nearby residents that would justify the refusal of the application.

There is the potential for use to result in odour nuisance, however provided that appropriate conditions are imposed upon an approval of planning permission, relating to ventilation and odour control systems, it is considered that the proposal would be acceptable in this regard.

Would the proposal be detrimental to highway safety?

Policy T14 considers that development that would significantly harm the safety and efficient use of the highway network should not be permitted. The A34 Liverpool Road is part of the Strategic Highway Network where the maintenance of the free flow of traffic would be an important objective (although not the sole one).

There is no off-street parking available in the vicinity, on street parking is possible outside the premises and in the adjacent residential Roberts Avenue. Notwithstanding this the Highway Authority has raised no objections to the proposal. On street parking, including parking on the A34, currently takes place in connection with the adjoining unrestricted retail uses and as such could take place at any time during the day and night. In addition the current lawful use of the premises would generate a demand for parking which cannot be met on site. Any additional on street parking over and above that generated by the existing lawful use would not be to the extent where obstruction or danger to other highway uses would occur. As such and in light of the recommendation of the Highway Authority it is considered that the proposal would not be detrimental to highway safety.

Are the alterations to property visually acceptable?

The bricking up of the front window is proposed to enable a staircase to be created internally that would serve the flat above. This will result in an imbalance in the appearance of the pair of properties, however this is not considered to be unacceptable given that there already exists an imbalance as a result of an extension on the adjoining property and bearing in mind that currently there is a large roller shutter that spans the entire property frontage.

The proposed flue to the rear will be visible from Roberts Avenue, however provided it is of a recessive colour it is considered that no harm will arise.

Background Papers

Planning File

Development Plan

National Planning guidance/statements

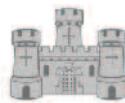
Date Report Prepared

3 October 2012

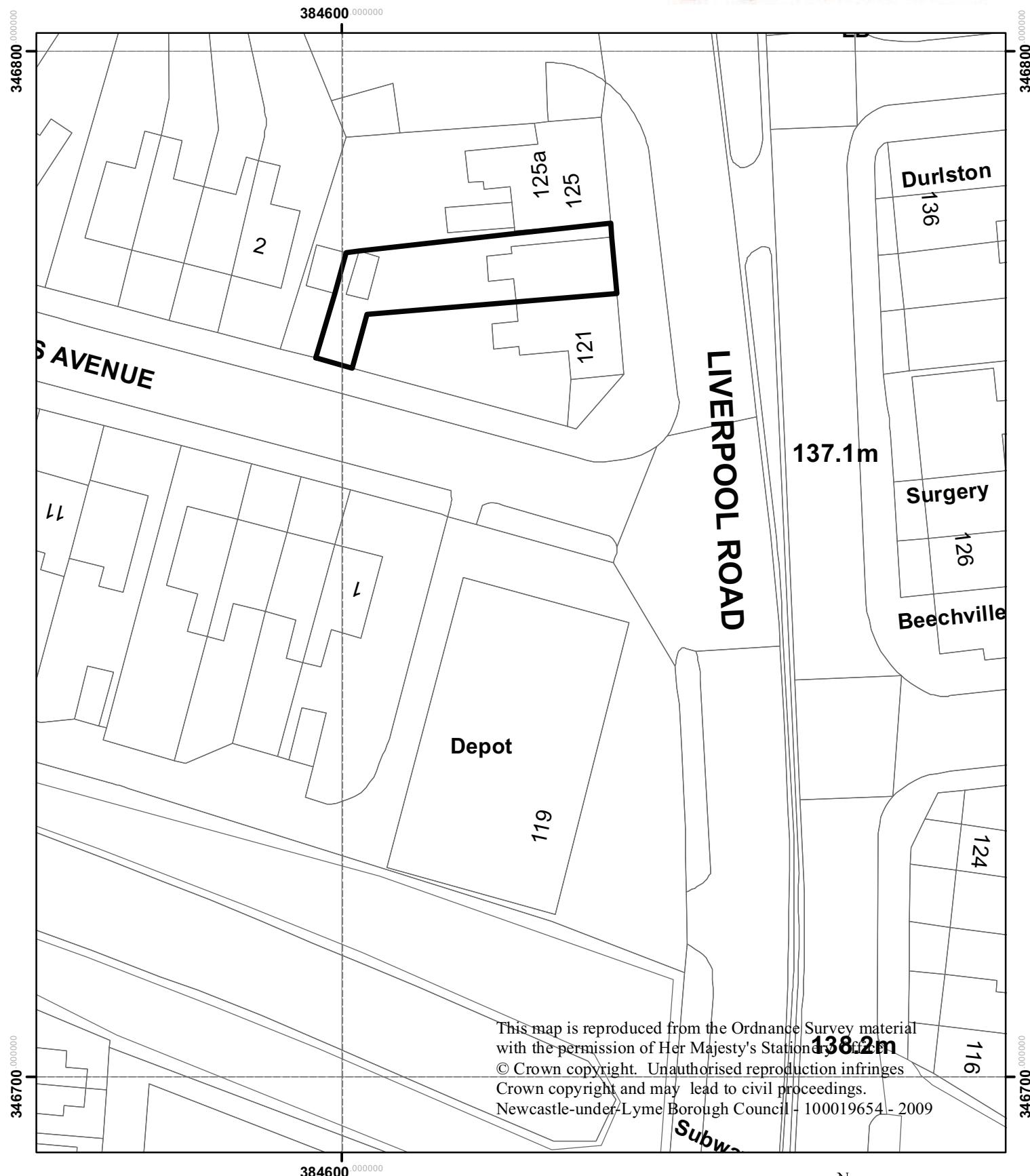
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123 Liverpool Road, Cross Heath

12/475/FUL



NEWCASTLE-UNDER-LYME
BOROUGH COUNCIL



Newcastle under Lyme Borough Council
Planning & Development Services
Date 23.10.2012

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Agenda Item 6

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 to the Committee's consideration of the last quarterly report on the exercise of this Authority to early October 2012 it has been necessary to decide whether or not to exercise this delegated authority on 3 occasions with respect to 3 applications. In each case 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 and Members resolved to permit the application subject to the completion of a section 106 Obligation by 3 October 2011 (the 13 week period expiring on 10 October). 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 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 26 September 2012. At the time this report was finalised the obligation had not been completed and an update on this case will be given in a supplementary report.

Application ref 11/00627/FUL – Kidsgrove Ski Centre (North Staffordshire Ski Club)

The proposal for an extension to the existing ski slope at the Kidsgrove Ski Centre, Bathpool Park came before the Planning Committee on the 6th March 2012 and members resolved to permit the application subject to the completion of a section 106 obligation by 6 April (the eight week period expiring on 5 March).

The agreement was not completed by this date and the period for the completion of the agreement has subsequently extended to the following dates - 27 April, 30 May, 15 June, 29 June, 9 August and 7 September.

There has throughout been evidence of the continued willingness of the applicant to enter into this agreement, and they have promptly responded to correspondence but progress by the Council has been limited, and therefore, it has been considered that to exercise the delegated authority to refuse the application at the above stages would be unreasonable.

The agreement was completed by 7 September and the planning permission was issued shortly afterwards, outside the statutory determination period deadline.

Application 11/00611/FUL – Wolstanton Retail Park (Marks & Spencer and McLagan Investments)

The proposal for the demolition of existing retail warehouse units, distribution unit and redundant methane pumping station, construction of new retail store with ancillary refreshment facilities, new and altered car parking, servicing and sewerage facilities at Wolstanton Retail Park came before the Planning Committee on 17 April 2012 and the Committee resolved that the Secretary of State be notified that the Council is minded to grant planning permission and, subject to the Secretary of State not "calling in" the application and subject to applicant entering into Section 106 obligations by 31 July to grant planning permission subject to various conditions. As previously reported the Secretary of State did not call in the application.

The matters to be addressed within the obligations being numerous and complex the period for their completion was longer than normally considered appropriate and necessary. However, it has not proved possible to secure the obligations by the agreed date. Whilst progress has been made, such progress has proved slow due to the time it has taken for all involved to consider and respond to the information received.

Given the above, the Head of Planning and Development considered it unreasonable to exercise his delegated authority to refuse the application, and an extension of time for the completion of the obligations was agreed to 31 August and subsequently 28 September. 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 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 and 10 September.

The obligations have not been secured by these dates. The applicants are actively pursuing completion of the obligations and there are ongoing discussions about the terms of an agreement with particular respect to the issue of phasing. It is also possible that an issue that the Council had previously indicated it was prepared to deal with by a condition attached to the planning permission (relating to improvements to an offsite footpath) may instead be addressed by an obligation. Your officer is proceeding on the assumption that this would be acceptable to the Planning Committee.

An advance supplementary report will be provided to the Planning Committee on this matter.

Date Report Prepared

9 October 2012

Agenda Item 7

APPEAL DECISION

Two Storey Rear Extension Providing Kitchen and Toilets With Storeroom over at 72-74 Wereton Road, Audley. 77 Audley Scout Group

Application Number: 11/00632/FUL

Recommendation: Approval

Decision: Refused by Planning Committee on 14 February 2012

Appeal Decision: Appeal allowed

Date of Appeal Decision: 28 September 2012

The full text of the appeal decision is available to view on the Council's website (as an associated document to application 11/00632/FUL) and the following is only a brief summary.

The Inspector considered the main issue to be the effect of the proposal on the living conditions of the occupants of No.70 Wereton Road in respect of privacy, outlook and light levels.

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

- There would be no loss of privacy to the occupiers of No. 70 from the proposed two storey extension because the plans indicate that the proposed windows facing the rear yard of No. 70 would be fitted with obscure glazing.
- There would be no significant increased loss of outlook from the nearest ground floor lounge window of No.70 from the proposed extension. This is because the window concerned is recessed by around 1.7metres, as a result of the rear projection along the boundary of the existing main part of the appeal building. This recess already restricts the outlook from the lounge window and amount of daylight that the window receives. The increased loss of outlook from the kitchen window of No.70 would also be minimal because the proposed extension would be a similar distance from the boundary compared to the existing rear projection at the appeal building.
- The proposed extension would cause some increase in the loss of daylight and sunlight to the rear ground floor lounge window at No. 70. This is because of the increased height of the proposed extension compared to the existing single storey rear projection at the appeal building. However, there would still be a reasonable separation distance between the proposed extension and the boundary. The extension has also been designed to maintain a similar eaves' height to that of the main hall in the appeal building in order to restrict the impact on the rear lounge window No. 70.
- The increased loss of daylight, and sunlight in the afternoon period, would not be so significant as to cause harm to the living conditions of the occupiers of No. 70 and insufficient reason to dismiss the appeal.
- There would be no significant impact on the residential amenity of neighbours and no conflict with the core principles of PSS1 or any policies listed as forming part of the development plan.

Other Matters

- Representations were made regarding the existing on street parking and resultant traffic problems at Wereton Road that are intensified by parents dropping off children at the appeal site.
- With respect to these the Inspector noted that the building already serves up to 40 scouts and cubs at any one time with 4 meetings per week. The primary purpose of the proposal would be to improve toilet and kitchen facilities and to provide first floor storage, rather than expand the number of attendees. And in any event a condition could be imposed to ensure that the proposed first floor of the extension was only used for storage purposes.
- The Inspector concluded that a condition restricting use of the first floor of the extension for storage only was required to prevent undue intensification of the use of the building and to avoid any consequential additional highway safety problems from increased on-street parking in addition to the standard time condition for the commencement of development, a condition ensuring compliance with the submitted plans and a condition requiring the use of matching external materials.

RECOMMENDATION

That the decision be noted.

Agenda Item 8

APPEAL DECISION

Landscaping Mounding of the 9-Hole Course at Keele Golf Centre, Keele Road, Keele, Mr Nick Worrall

Application Number: 11/00257/FUL

Recommendation: Approval

Decision: Refused on 26 August 2011 further to Committee resolution of 23 August 2011

Appeal Decision: Dismissed following a hearing

Date of Appeal Decision: 19 September 2012

At the hearing, the Council submitted a draft Section 106 agreement between the Council, the appellant and the appellant's lender to secure the satisfactory completion of the development. Following the close of the Hearing, the appellant and the Council were given the opportunity to submit a completed agreement generally in the form of the draft document submitted to the Hearing. No such agreement was submitted and the appeal was considered on the basis that no such agreement was in place.

Having been advised that refusal reasons 1 and 2 (concerning the safety and enjoyment of users of the public rights of way and harm to residential amenity due to additional heavy goods vehicle traffic) were not an issue the Inspector considered that the main issues in this case were:

- whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework;
- the effect of the restored proposal on the character and appearance of the surrounding area;
- whether the extent of the landscape mounding with inert waste material would be reasonable and necessary and whether the amount of material to be deposited would be the minimum necessary for the intended purpose;
- whether an appropriate mechanism would exist to secure the restoration of the site; and
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

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

Inappropriate Development

- The contours of the proposed landscape mounding would render the site less developable.
- The 9 hole course is underused at the present time and the proposal, by improving the playing experience on the course, would help to utilise this spare capacity and increase the use of the clubhouse and potentially the 18 hole course. This increased activity would therefore improve the viability and future security of the golf centre operation, and this would also render the site less developable.
- The fact that the site would be less developable would assist in checking the unrestricted sprawl of large built up areas of this part of Staffordshire; help to prevent neighbouring towns from merging; and assist in safeguarding the countryside from encroachment. The proposal would therefore accord with these three purposes of the Green Belt as set out in the National Planning Policy Framework (NPPF). The other two purposes are not relevant.
- The mounding would materially and identifiably raise the contours of the site and therefore would not preserve the openness of the Green Belt in this area even though, on average over the area of the site, the raising would be somewhat limited. Notwithstanding that the proposal would not conflict with the purposes of including land in the Green Belt, the Inspector concluded that it would constitute inappropriate development in the Green Belt and that this harm to the Green Belt attracted substantial weight in the decision.

Character and Appearance

- The appeal is situated within one of the Council's Landscape Maintenance Areas, is readily visible from the north but other views are significantly restricted by woodland and hedgerows.
- The mounds in the upper parts of the course would be much larger in area than those further down the slope of the ridge. Their contours however would be similar to those which currently exist and, when landscaped, they would appear as natural features. They therefore would not erode the landscape character of the area and would conserve the quality of the character of the landscape in accordance with the Regional Strategy Policy QE6. The Inspector noted the Government's intention to revoke Regional Strategies but considered that this intention could only be given limited weight in this appeal.
- The absence of harm from these larger and more prominent upper mounding areas would however be fundamentally dependent on all of them being satisfactorily landscaped. Should this not be the case they would be readily visible in views from the north and would have a harmful effect on the character and appearance of the surrounding area, and this would be sufficient reason to dismiss the appeal. Measures would therefore be required to secure the restoration.
- The mounded areas in the lower parts of the site would incorporate steep slopes and somewhat unnatural contours. The mounds would however be functionally and visually integrated with the golf centre, and would be similar to those generally found around bunkers and greens. The landscape change would not be out of character with these parts of the site.
- In views from Keele Road and the Keele Historic Parks and Gardens registered parkland the mounding would be hardly visible.
- The overall magnitude of change to this area would be medium, notwithstanding the significant change on the lower parts of the site, and the landscape character impact on the area would then be slight adverse.
- The visual impact from Silverdale Country Park would be slight adverse.
- The conclusion is that the restored proposal would not have a harmful effect on the character and appearance of the surrounding area.

Mounding Extent and Amount of Material to be Deposited

- The extent of mounding in close proximity to the fairways and greens, together with the use of inert waste, would be necessary and reasonable to improve the playing experience on the course.
- The mounding beyond the fairways and greens would not be strictly necessary to create the valleys and bowls but would be necessary in landscape terms to blend in with the rising hillside towards the road, and this would avoid somewhat unnatural mounds in the more prominent upper parts of the site.
- Inert waste would also be a self funding economical, sustainable and appropriate material to use for the mounding.
- The mounding as a whole would represent the minimum necessary for the intended purpose in accordance with policies in the Waste Local Plan and the emerging Waste Core Strategy.
- There is no evidence to support the contention that other golf courses have been ruined by similar landfill activities. Indeed, the appellant has suggested a phased approach to avoid excessive disturbance at any one time, and it would not be in the appellant's interests to ruin its asset. Furthermore, to prevent harm to the character and appearance of the surrounding area, it would be necessary to ensure that the mounding in the upper parts of the site was restored whatever circumstances arose. The risk of the course being ruined would therefore be no reason to dismiss the appeal.
- A cut and fill operation as an alternative would be more disruptive and there is nothing to suggest that a better option exists other than that proposed.

Restoration Mechanism

- In the absence of a Section 106 agreement or any other measures to satisfactorily secure restoration, there is no mechanism in place to secure the restoration of the more sensitive upper parts of the site and this would conflict with Core Strategy Policy CSP10.

Other Considerations

- The improved use of the 9 hole course would enhance the beneficial use of this area of Green Belt in terms of opportunities for outdoor sport and recreation. Access to high quality opportunities for sport and recreation can make an important contribution to the health and well being of communities. The proposal would also improve the quality of the 9 hole course and the accessibility of golf as an outdoor sport and recreation activity. These matters attract very considerable weight in favour of the proposal.
- The increased activity would bring some economic growth to this rural area, in a sustainable location near to centres of population. Moreover, the proposal would address the three dimensions to sustainable development by supporting growth in an economic role, supporting healthy communities in a social role and minimising waste in an environmental role. These matters also attract very considerable weight in favour of the proposal.

Conclusion

- Although the completed proposal was found by the Inspector to be acceptable in terms of the character and appearance of the surrounding area and the use of inert waste, this would not clearly outweigh the harm to the Green Belt and the harm from the absence of a secure restoration mechanism.

Costs Application by Mr Nick Worrall, Keele Golf Centre in Relation to the Above Appeal Proceedings

- The appellant made an application for a full award of costs claiming that the Council behaved unreasonably as the Council's committee minute concerning the planning application did not set out any justification as to why the officer's recommendation for approval was not accepted. In addition without any prior warning following the submission of the appeal the Council indicated that it would not be submitting evidence in support of its refusal reasons 1 and 2. In relation to refusal reason 3, the minutes of the Council's committee meeting which determined the application did not give any quantified reasons for this element of the refusal, which represented a departure from the officer's recommendation.
- Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
- The Council did not provide any substantiation in respect of refusal reasons 1 and 2 in conflict with the Circular and this represents unreasonable behaviour. Moreover, the Council had relied on reasons for refusal which added to development costs without good reason also in conflict with the Circular.
- The Council did however provide a reasonable body of evidence in support of refusal reason 3 which represented adequate substantiation and was not an example of unreasonable behaviour.
- While applicant has incurred the expense of preparing, submitting and conducting the appeal in relation to refusal reasons 1 and 2 and that the Council's behaviour was unreasonable, the Council did however advise the applicant of its decision not to defend these reasons, and the unnecessary expense was limited.
- A partial award of costs was justified.

Officer's Comments

Whilst the appeal was dismissed the Inspector did not agree with the reason that the Council defended in its evidence i.e. that the development involved excessive mounding and the creation of artificial incongruous looking landscape elements which would be harmful to the character and appearance of this landscape. Should the application be resubmitted the Council would be considered to have acted unreasonably if it refused the application for any other reasons than the absence of an appropriate restoration mechanism.

Although the costs application was for a full award of costs, it was successfully resisted on the grounds that the evidence put forward by the Council in relation to the third reason for refusal, which involved the expense of appointing landscape consultants, was sufficient. However, a partial award of costs was made against the Council on the grounds that no evidence was offered by the Council to substantiate reasons 1 and 2.

In refusing a scheme, the Council must be capable of producing substantive evidence to support its decision and any harm must be clearly and specifically identified. In this case it was not possible to provide substantive evidence to support reasons 1 and 2. Whilst a report was brought to Committee and it was agreed that reasons 1 and 2 would effectively be withdrawn, this did not, and could not, take place before the appeal was lodged at a time when the appellant had already undertaken work. The effective withdrawal of the reasons therefore only limited the costs awarded. This highlights the importance, where possible, of discussing any concerns about a proposal with Officers in advance of the Committee meeting as this provides the opportunity for more detailed advice to be sought research undertaken to enable more informed advice to be given at the meeting.

Recommendation

That the officer's comments and decisions be noted.