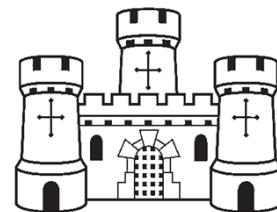


# Public Document Pack

**Date of meeting** Tuesday, 18th July, 2017  
**Time** 6.30 pm  
**Venue** Council Chamber, Civic Offices, Merrial Street, Newcastle-under-Lyme, Staffordshire, ST5 2AG  
**Contact** Geoff Durham



**NEWCASTLE  
UNDER LYME**  
**BOROUGH COUNCIL**

Civic Offices  
Merrial Street  
Newcastle-under-Lyme  
Staffordshire  
ST5 2AG

PLEASE NOTE EARLIER START TIME

## Planning Committee

### AGENDA

#### PART 1 – OPEN AGENDA

- 1 APOLOGIES**
- 2 DECLARATIONS OF INTEREST**  
To receive Declarations of Interest from Members on items included on the agenda.
- 3 MINUTES OF PREVIOUS MEETINGS** (Pages 5 - 14)  
To consider the minutes of the previous meeting(s).
- 4 APPLICATION FOR MAJOR DEVELOPMENT- ORCHARD HOUSE AND 35 CLAYTON ROAD, NEWCASTLE. BAC O'CONNOR. 17/00194/OUT** (Pages 15 - 28)
- 5 APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF MEADOW WAY, BALDWINS GATE. BELLWAY HOMES (WEST MIDLANDS). 16/01101/FUL** (Pages 29 - 58)
- 6 APPLICATION FOR MAJOR DEVELOPMENT - LAND AROUND WILMOT DRIVE ESTATE, LOWER MILEHOUSE LANE, NEWCASTLE. KIER LIVING LTD. 17/00281/FUL** (Pages 59 - 72)
- 7 APPLICATION FOR MAJOR DEVELOPMENT - FORMER SAVOY CINEMA/METROPOLIS NIGHTCLUB, HIGH STREET,NEWCASTLE. MODULTEC. 17/00174/FUL** (Pages 73 - 76)
- 8 APPLICATION FOR MINOR DEVELOPMENT - LAND OFF HIGHFIELDS COURT, CLAYTON. HULME UPRIGHT. 16/00943/FUL** (Pages 77 - 86)

- |    |   |                   |
|----|---|-------------------|
| 9  | APPLICATION FOR MINOR DEVELOPMENT - SITE ADJ ST MICHAEL'S PRESBYTERY LIVERPOOL ROAD, CROSS HEATH. NEWCASTLE BOROUGH COUNCIL. 17/00489/DEEM3 | (Pages 87 - 92)   |
| 10 | APPLICATION FOR MINOR DEVELOPMENT - LAND AT JUNCTION WITH A34 LINLEY ROAD, TALKE. NEWCASTLE BOROUGH COUNCIL. 17/00490/DEEM3                 | (Pages 93 - 98)   |
| 11 | APPLICATION FOR MINOR DEVELOPMENT - MONKEY TREE COTTAGE, HEIGHLEY LANE, KNOWLE BANK, AUDLEY. MR ALAN BRAYFORD. 17/00335/FUL                 | (Pages 99 - 106)  |
| 12 | APPLICATION FOR MINOR DEVELOPMENT - EARDLEY HALL KENNELS, CROSS LANE, AUDLEY. MR TIM JONES. 17/00425/FUL                                    | (Pages 107 - 114) |
| 13 | APPLICATION FOR MINOR DEVELOPMENT - 15 MORSTON DRIVE, CLAYTON. MR & MRS EVANS. 17/00472/FUL   | (Pages 115 - 120) |
| 14 | APPLICATION FOR OTHER DEVELOPMENT - NEW WOODHOUSE FARM, APEDALE ROAD, WOOD LANE. MR & MRS G PROCTOR. 17/00457/FUL                           | (Pages 121 - 126) |
| 15 | APPLICATION FOR OTHER DEVELOPMENT - OAK LODGE, MUCKLESTONE WOOD LANE, LOGGERHEADS. MR G SPENCER. 17/00396/FUL                               | (Pages 127 - 132) |
| 16 | QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED  | (Pages 133 - 138) |
| 17 | REPORT ON OPEN ENFORCEMENT CASES  | (Pages 139 - 140) |
| 18 | APPEAL DECISION - SMITHY COTTAGES, BAR HILL, MADELEY  | (Pages 141 - 144) |
| 19 | APPEAL DECISION - OFFLEY ARMS PUBLIC HOUSE, POOLSIDE, MADELEY   | (Pages 145 - 148) |
| 20 | APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - ST MARY AND ALL SAINTS CHURCH, WHITMORE                                   | (Pages 149 - 150) |
| 21 | <b>URGENT BUSINESS</b>  |                   |

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

**Members:** Councillors Burgess, Fear, S Hambleton, Heesom, Northcott, Panter, Proctor (Chair), Reddish, Simpson, Spence (Vice-Chair), Sweeney, S Tagg, G White, G Williams, J Williams and Wright

**PLEASE NOTE:** The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

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

**Meeting Quorums :-** 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

**FIELD\_TITLE**

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

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**PLANNING COMMITTEE**

Tuesday, 20th June, 2017  
Time of Commencement: 7.00 pm

**Present:-** Councillor Bert Proctor – in the Chair

Councillors Burgess, Fear, Holland, Northcott,  
Panter, Reddish, Simpson, Spence,  
Sweeney, S Tagg, G Williams,  
J Williams, Winfield and Wright

Officers Nick Bromley, Geoff Durham, Elaine  
Moulton, Peter Stepien, Trevor Vernon  
and Darren Walters

1. **APOLOGIES**

Apologies were received from Councillors' Hambleton, Heesom and White

2. **COUNCILLORS SANDRA AND TREVOR HAMBLETON**

The Planning Committee sent their best wishes to Councillors Sandra and Trevor Hambleton.

3. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

4. **MINUTES OF PREVIOUS MEETING(S)**

**Resolved:** That the minutes of the meeting held on 23 May, 2017 be agreed as a correct record.

5. **APPLICATION FOR MAJOR DEVELOPMENT - ORCHARD HOUSE AND 35 CLAYTON ROAD, NEWCASTLE. BAC O'CONNOR. 17/00194/OUT**

*Proposed by Councillor John Williams and seconded by Councillor Holland.*

**Resolved:** That the application be deferred to enable officers to obtain clearer information regarding the site access.

6. **APPLICATION FOR MAJOR DEVELOPMENT- ST JOHN FISHER CATHOLIC COLLEGE, ASHFIELDS NEW ROAD, NEWCASTLE. ST JOHN FISHER CATHOLIC COLLEGE. 17/00156/FUL**

**Resolved:** That the application be permitted subject to the undermentioned conditions:

- (i) Approved drawings.

- (ii) Time Limit.
- (iii) Prior approval of all external facing materials.
- (iv) Prior approval and implementation of an Construction and Environmental Management Plan and a Construction Vehicle Management Plan.

**7. APPLICATION FOR MAJOR DEVELOPMENT - FORMER WOODSHUTTS INN, LOWER ASH ROAD, KIDSGROVE. ASPIRE HOUSING LTD. 17/00324/FUL**

**Resolved:** (i) That the *removal* of condition 14 be refused for the following reason:

In the absence of the provision of a suitable odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road there is a high impact risk that odour arising from that premises will adversely affect the living conditions of the occupiers of the development. It is therefore considered that if the condition is removed as proposed the residential development is not appropriate for this location, contrary to the aims and objectives of the National Planning Policy Framework;

- (ii) That the *variation* of the condition in question be approved so that it now reads:

Within 9 months of the date of this decision an odour abatement system to the kitchen ventilation system of the hot food takeaway adjoining the site on Lower Ash Road *shall have been* installed in accordance with full and precise details that have been submitted to and approved in writing by the Local Planning Authority beforehand. The system shall be designed to operate in full accordance with the approved details before any of the dwellings hereby permitted are occupied and shall thereafter be maintained in accordance with the approved details. The kitchen ventilation system shall be regularly maintained to ensure its continued operation and the cooking process shall cease to operate if at any time the extraction equipment

**8. APPLICATION FOR MAJOR DEVELOPMENT -FORMER ORME CENTRE, ORME ROAD, NEWCASTLE. GSG ORME CENTRE LTD. 16/00796/OUT**

**Resolved:** (i) That it be agreed to extend the date by which substantial commencement must be achieved to within 18 months from the date of the planning permission.

(ii) That it be agreed that the date by which the agreement must be completed now be 14<sup>th</sup> July.

**9. APPLICATION FOR MINOR DEVELOPMENT - ST PETER'S CHURCH, MAER. ANDREW MAINWARING. 17/00219/FUL**

**Resolved:** That the application be permitted subject to the undermentioned conditions:

- (i) Time limit.
- (ii) Approved drawings.
- (iii) Materials.
- (iv) Excavations shall be hand dug.
- (v) Archaeological watching brief be undertaken following written consent.

10. **APPLICATION FOR MINOR DEVELOPMENT - AUDLEY COMMUNITY CENTRE, NANTWICH ROAD, AUDLEY. MRS DOBSON. 17/00260/FUL**

**Resolved:** That the application be permitted subject to the undermentioned conditions:

- (i) Standard time limit for commencement of development.
- (ii) Approved plans.

11. **APPLICATION FOR MINOR DEVELOPMENT - SLACKEN LANE. ASHGREEN LTD. 13/00266/CN06, CN07 AND CN11**

**Resolved:** (i) That the drainage details, provided with application 13/00266/CN06 be approved as acceptable and satisfying the requirements of condition 6 of planning permission 13/00266/FUL.

- (ii) That the proposed Slacken Lane widening and resurfacing details provided with application 13/00266/CN07 be approved ( Including the provision of a new hawthorn hedge adjoining the widened Slacken Lane) as acceptable and satisfying the requirements of condition 7 of planning permission 13/00266/FUL subject to the requirement that Tree Protection Fencing is provided in the position shown on a plan; that all excavations works are carried out outside of the Tree Protection Fencing unless it has first been demonstrated that this can be done without damage to tree roots; and that 'no-dig' ground protection is undertaken in the identified area.

- (iii) That the waste and recycling details provided with application 13/00266/CN11 be approved (including the plan identifying on-site turning head and parking for all properties) as acceptable and satisfying the requirements of condition 11 of planning permission 13/00266/FUL.

12. **APPLICATION FOR OTHER DEVELOPMENT - CORNER OF CHURCH LANE AND SILVERDALE ROAD, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 16/00312/DEEM3**

**Resolved:** That the application be permitted subject to the undermentioned conditions:

- (i) Approved (revised) plans.
- (ii) Tree protection measures.
- (iii) Highway method statement to address installation and maintenance of the sign.

13. **APPLICATION FOR OTHER DEVELOPMENT - LAND AT LOWER STREET, NEWCASTLE. NEWCASTLE BOROUGH COUNCIL. 17/00315/DEEM3**

**Resolved:** That the application be permitted subject to the undermentioned conditions:

- (i) Submission and approval of a plan at a scale of 1:50 or 1:100 showing the precise position of the sign to ensure no/minimal impact on trees, that the hoarding or its foundations etc do not project forward of the crash barrier;
- (ii) Landscaping of the embankment
- (iii) Highway method statement to address installation and maintenance of the sign.

**14. APPLICATION FOR OTHER DEVELOPMENT - FAIRFIELD HOUSE, BAR HILL ROAD, ONNELEY. MR & MRS LEA. 17/00405/AAD**

**Resolved:** (A) That a positive Certificate be issued indicating that it is the opinion of the Local Planning Authority that planning permission would have been granted for the following development, in addition to the development for which the land is to be acquired, if it were not proposed to be acquired by the Authority possessing compulsory purchase powers;

- (i) Construction of two dwellings, up to two storey in height, with a footprint as indicated on the submitted plan
- (ii) Construction of two buildings for use falling within Class C4 (small houses in multiple occupation)
- (iii) Construction of a building/s for uses falling within Class B1 (b) and (c) (research and development and light industry)
- (iv) Any other uses which, should the comments of the County Council not be received prior to the meeting, your Officer considers appropriate to include

(B) That planning permission would have been granted for the above development, at the relevant date or if permission granted after the relevant date, subject to the conditions relating to the following which may have an impact on the value of the land:

- (i) Widening of the access and provision of vehicle visibility splays.
- (ii) Provision of suitable noise attenuation measures and restriction on hours of use for any Class B1 use of the site.
- (iii) Any conditions relevant to developments identified following receipt of the comments of the County Council

And such certificate shall include a statement of the Council's reasons for the above opinion, which shall be based upon the content of this report, and that your officers should have delegated authority to ensure that the Certificate to be provided meets the statutory requirements

**15. HALF YEARLY REPORT ON PLANNING OBLIGATIONS**

**Resolved:** (i) That the report be noted.



- (ii) That the Head of Planning continue to provide such a report on a half yearly basis to the Planning Committee.

16. **TREE PRESERVATION ORDER - 16 DIMSDALE PARADE EAST, NEWCASTLE. TPO 180**

**Resolved:** That Tree Preservation Order No 180 (2017), 16 Dimsdale Parade East be confirmed as made and that the owners of the site be informed accordingly.

17. **CONFIRMATION OF ARTICLE 4 DIRECTIONS FOR THE BRAMPTON AND WATLANDS PARK CONSERVATION AREAS**

**Resolved:** That the non-immediate Article 4 Directions for the Brampton and Watlands Park Conservation Areas be confirmed as coming into force on 29 June, 2017 as set out in the Directions.

18. **URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR BERT PROCTOR**  
**Chair**

Meeting concluded at 8.40 pm

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## **PLANNING POLICY COMMITTEE**

Thursday, 22nd June, 2017  
Time of Commencement: 7.00 pm

<b>Present:-</b>	Councillor Bert Proctor – in the Chair
Councillors	Burgess, Fear, Heesom, Naylor, Northcott, Panter, Simpson, Spence, Sweeney, S Tagg, Turner, G Williams, J Williams and Wright
Officers	Helen Beech, Geoff Durham and Trevor Vernon
Apologies	Councillor(s) S Hambleton, Reddish and White

### **1. APOLOGIES**

Apologies were received from Councillors' Hambleton, White and Reddish.

### **2. DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

### **3. JOINT LOCAL PLAN - STRATEGIC OPTIONS CONSULTATION DOCUMENT**

Members received a presentation from the Council's Planning Policy Manager, Helen Beech, on the Joint Local Plan.

The presentation provided an update on the plan-making process for the Newcastle-under-Lyme and Stoke-on-Trent Joint Local Plan and also sought the support of the Planning Committee to go out to public consultation on the Strategic options Consultation Document.

A copy of the presentation would be sent to the Members.

Following the presentation, Members were invited to ask questions.

Councillor Fear asked who would decide which was the preferred option from the six given and was advised that the Council would decide. The Planning committee would have the opportunity to agree which of the six options went forward for a final decision.

Councillor Fear asked what the remit of the consultation was and also, what would happen if the two authorities – Newcastle and Stoke had different opinions? This concern was shared by a number of Members.

Members were advised that there had been a long established partnership between the two authorities, starting with the adopted Core Spatial Strategy and an equal balance would be aimed for. A Joint Advisory Group, with representation from both authorities, at Cabinet level, had been established and this could discuss any

matters that needed resolving. Planning Committee would be consulted again at the next consultation stage. Full Council would not get involved in the decision making until at least the Draft Plan stage.

Councillor Tagg asked when the Borough would have a Local Plan in place. Mrs Beech stated that staff resource issues had contributed to the delay but there was a need to ensure the Joint local Plan process was robust and a realistic timescale would be to have a Plan in place by 2020.

Councillor John Williams raised concerns about contaminated land and how this might impact on the ability to find new employment land. A lot of former employment sites around the Borough had also been lost to other uses. Mrs Beech stated that contaminated land and the loss of employment land to housing were both serious issues but national planning policy did not protect employment sites which had little prospect of coming forward. The issue of contamination was serious as it impacted on the viability of a site and deliverability and these were big issues. There was a need to find employment sites in suitable locations attractive to business sector investors. However, on the whole less employment land was required due to changes in labour force behaviour including more agile working/working from home.

Councillor Naylor asked if Neighbourhood Plans would have any status as the Local Plan was prepared. Members were advised that once a neighbourhood plan was 'made' it would become part of the Development Plan. However if a neighbourhood plan was made in advance of the Joint local Plan there was a risk that it could be superseded by the Joint Local Plan.

Councillor Northcott stated that there was little evidence of the part that the rural economy played on the Local Plan and what the economic potential was for rural areas. Mrs Beech advised Members that the Strategic Housing Market Assessment covered both Authorities and took the economy of the rural areas into account.

Councillor Spence stated that there had only been 82 responses and asked how many of those were from residents and how do we engage with communities:? Members were advised that it was not easy to engage people and get the message across. The number from residents could not be identified but the greater number of those who did respond were Newcastle residents.

Councillor Turner advised members that the timetable 'is what it is' and that it must not slip further. The Plan needs to be deliverable and sustainable.

- Resolved:**
- (i) That the responses to the consultation exercise carried out on the Issues Paper Consultation Document as set out in in the Joint Local Plan Issues Consultation and Responses Document be noted.
  - (ii) That it be recommended to Cabinet to approve the publication of the Strategic Options Consultation Document and accompanying Sustainability Appraisal Report in line with the methods of consultation set out in the adopted Joint Statement of Community Involvement.
  - (iii) That a report be submitted to a subsequent meeting of the Committee on the results of the Strategic Options public consultation exercise, as part of the next stage in the Joint Local Plan process – Preferred Options later in 2017.

- (iv) That it be recommended to Cabinet to agree the revised timetable (attached as Appendix 2 to the agenda report) for the production of the Joint Local Plan, and that this is published as an update to the council's Local Development Scheme.

**4. URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR BERT PROCTOR**  
**Chair**

Meeting concluded at 8.55 pm

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**ORCHARD HOUSE AND No. 35 CLAYTON ROAD, NEWCASTLE**  
**BAC O'Connor**

**17/00194/OUT**

The application is a hybrid application for full planning permission for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and outline planning permission for the erection of up to 20 dwellings on the remaining part of the site. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (internal access arrangements, appearance, landscaping, layout and scale) reserved for subsequent approval.

The application site lies within the major urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.80 hectares.

**A decision on the application was deferred at the Committee meeting held on the 20<sup>th</sup> June to enable officers to obtain clearer information regarding the proposed site access and visibility obtainable from it.**

**The 13 week period for the determination of this application expires on the 8<sup>th</sup> June 2017 but the applicant has agreed an extension of time to the statutory determination period to the 25<sup>th</sup> July 2017.**

## **RECOMMENDATIONS**

**A. Subject to the applicant entering into a Section 106 Planning Obligations by the 18<sup>th</sup> August 2017 securing 25% Affordable Housing onsite and a financial contribution of £2,943 (index linked) per dwelling on the site towards the maintenance and improvement of public open space at Lyme Valley Parkway.**

**PERMIT the application subject to conditions relating to the matters including:-**

- 1. Condition to reflect outline nature of part of the application;**
- 2. Time limit for submission of any approval of reserved matters and for commencement**
- 3. Approved plans and documents;**
- 4. No.35 Clayton Road to be converted in accordance with the submitted drawings and such works not to be undertaken except in association with the larger development subject of the outline planning permission;**
- 5. Reserved matters application to include a detailed surface water drainage scheme (SuDS);**
- 6. Finished floor levels set no lower than 112.98m above Ordnance Datum (AOD);**
- 7. Full details of improvements to the existing access;**
- 8. Submission and approval of a Construction Vehicle Management Plan;**
- 9. Submission and approval of a parking strategy, swept path drawings and surfacing materials/ drainage;**
- 10. Reserved matters application to include replacement planting for the loss of tree T2 and any other trees lost;**
- 11. Submission and approval of a detailed Tree Survey;**
- 12. Submission and Approval of Arboricultural Method Statement to BS5837:2012;**
- 13. Tree Protection Plan;**
- 14. Design measures to control internal noise levels;**
- 15. Submission and approval of a Construction Environmental Management Plan;**
- 16. Full Land Contamination measures;**
- 17. Recyclable materials and refuse storage details;**
- 18. Drainage Details – foul and surface water;**
- 19. Adherence to Recommendations of the ecological report and supplementary reports for certain species; and**
- 20. Reserved matters application to include mitigation measures for protected species**

**B. Should the obligations referred to above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such an obligation the development would fail to secure an acceptable provision of adequately maintained public open space and an appropriate level of affordable housing or, if he considers it appropriate, to extend the time period within which the obligation referred to above can be secured.**

## **Reason for Recommendations**

Whilst the development is not located on land that would meet the definition of previously developed land, it is located within a sustainable urban area and there is a strong presumption in favour of sustainable development in the context of the Council's inability to be able to demonstrate a 5 year supply of deliverable housing. The proposed development would need to secure 25% affordable housing and a financial contribution towards public open space to be policy compliant. Furthermore the applicant has demonstrated that up to 20 new build dwellings can be accommodated within the site that would have an acceptable impact on the visual amenity of the area, existing residential properties, ecology, and trees and hedgerows. The new access could serve the proposed 24 units without detriment to highway safety. The proposed development therefore accords with the guidance and requirements of the National Planning Policy Framework.

**Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**



The applicant has been in discussions with officers of the LPA to address concerns raised by consultees and this has resulted in amended plans of the access arrangements and additional information being submitted. The proposed development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

## **KEY ISSUES**

1.1 This is a hybrid application for full planning permission for the demolition of Orchard House and the conversion of No.35 Clayton Road into 4 flats and for outline planning permission for a residential development of up to 20 dwellings meaning that there would be 24 dwellings on the site in total. Access from the highway network is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval. Notwithstanding this, an indicative layout has been submitted together with a Planning, Design and Access Statement. The layout plans are for illustrative purposes only and such details would be for consideration at the reserved matters stage if outline permission were granted.

1.2 The application site, of approximately 0.80 hectares in extent, is land that does not meet the definition of previously developed land but is located within the urban area of Newcastle which has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

1.3 Orchard House was previously in use as a drug and alcohol rehabilitation centre until it closed in December 2016.

1.4 The main issues for consideration in the determination of this application are accordingly:-

- Is this an appropriate location for residential development?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the proposed development have any material adverse impact upon highway safety?
- Would the impact on trees and ecology be adverse?
- Is a footpath link to adjacent public open space necessary and justified?
- Would the development impinge unduly upon levels of residential amenity of adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves? and
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

## **2.0 Is this an appropriate location for residential development?**

2.1 Local planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

2.2 Saved Local Plan policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 1,000 dwellings within Newcastle Urban South and East (within which the site lies).

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 Whilst the site has buildings towards the front the majority of the land is garden and does not meet the NPPF definition of previously developed land. The site is within the urban area in close proximity

to Newcastle town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also in close proximity to schools, open space and employment opportunities. Therefore, it is considered that the site provides a highly sustainable location for additional residential development.

2.5 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. At paragraph 14, the Framework also states that unless material considerations indicate otherwise, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole.

2.6 The Local Planning Authority is currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a sustainable location.

2.7 On the basis of all of the above, it is considered that the principle of residential development in this sustainable location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

### 3.0 Would the proposed development either have a significant adverse impact on the character and form of the area?

3.1 Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states 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.

3.2 Policy CSP1 of the CSS under the heading of 'Design Quality' advises new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape. The Urban Design SPD further expands on this by advising in R14 that "Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them."

3.3 The only matter for approval as part of this application is access. The appearance, layout, scale and landscaping of the development are reserved for subsequent approval. However, an illustrative layout plan has been submitted along with a planning, design and access statement which indicates at paragraph 5.7 that the proposed dwellings would be a maximum of two storeys in height, in order to minimise the visual impact and prominence of the scheme, and to relate well to the local context.

3.4 Orchard House dominates the site frontage but offers limited visual merit within the existing street scene and this is proposed to be demolished to accommodate the proposed scheme. The application site also has a Victorian Lodge building (No.35) on the frontage of the site which has an attractive appearance within the existing street scene and would be retained and converted to 4 flats with 20 residential dwellings proposed on the remaining site. This is to be welcomed.

3.5 The site frontage is dominated by trees, as is the rear of the site which adjoins the Lyme Brook that runs in between the application site and the adjacent Lyme Valley Park public open space.

3.6 The illustrative layout demonstrates that an acceptable scheme can be achieved that would not harm the visual amenity of the area. Furthermore, information has been submitted which shows how a sustainable urban drainage scheme (SuDS) could be accommodated. The County Council's Flood Risk team have raised no objections but have advised a condition which would secure a detailed surface water drainage scheme for the site which should include an acceptable management and

maintenance plan for surface water drainage. This information should be submitted as part of the reserved matters application.

3.7 Overall, subject to conditions, it is not considered that the development would have such an adverse impact on the character or quality of the wider visual amenity to justify a refusal.

#### 4.0 Would the proposed development have any material adverse impact upon highway safety?

4.1 Access is a matter for approval as part of this application and the proposed development would have a single point of access onto Clayton Road. This would utilise the existing point of access onto Clayton Road but works to significantly modify the access would be required to serve the proposed development.

4.2 The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

4.3 Representations have been received raising concerns about the impact of the development on highway safety, in particular the volume of traffic that would be generated by the proposed development onto a busy road and the proximity of the access to the existing traffic lights on Clayton Road.

4.4 The application is supported by a Transport Statement which indicates that the proposed residential development would generate a net increase of up to 13 two-way movements in the busiest peak hour compared to the existing use of the site. This is not considered to represent a significant off-site impact on the surrounding highway network.

4.5 The Highways Authority (HA) has raised no objections subject to conditions which include full details of improvements to the existing access, submission and approval of a Construction Vehicle Management Plan (CVMP) and swept path analysis information, surfacing details and a parking strategy and details.

4.6 Following the deferral of the application at the last committee meeting the applicant has submitted further plans which show the proposed new access onto Clayton Road. The plans, which are available to view at the Committee show that the access can be improved and what visibility splays can be achieved even allowing for parked cars as vehicles coming out onto the carriageway "edge out". The applicant notes that "Manual for Streets 2" (national guidance) states that "parking in visibility splays in built up areas is quite common, yet it does not appear to create significant problems in practice. Ideally, defined parking bays should be provided outside of the visibility splay. However, in some circumstances where speeds are low, some encroachment may be acceptable". Section 10.7 goes on to state that "at urban junctions where visibility is limited by buildings and parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic".

4.7 The application also indicates that a 5 metres wide carriageway and 1.8 metres wide footways on either side of the access can be achieved. It is indicated that a refuse collection vehicle could satisfactorily enter and egress the site access, with limited overhang of the centre line. A refuse collection vehicle should be able to manoeuvre within 25 metres of each dwelling.

4.8 The HA have provided further advice also. They advise that a condition securing full details of improvements to the access is only required to ensure that a suitable access/footway could be constructed in line with highway specifications. This concern has, to some extent, now been addressed by the removal of the tree to the north of the access point but the condition is still necessary. In terms of incidental occasional on-street parking within the visibility splays, as opposed to where there is consistent, and substantial linear on-street parking, this is not normally considered when checking vehicular visibility splays. A Traffic Regulation Order (TRO), funded by the developer, to protect the access could potentially be requested. Any TRO has to go through a consultation process and any resident who does park their vehicle on the highway is likely to object to any proposal. Furthermore, there is no guarantee that a TRO would be successful. The HA do not consider that a TRO is necessary or justified in this instance and they reiterate that they have no objections to the application subject to the recommended conditions.

4.9 The site is in a location that would encourage non-car modes of travel and the site is within easy walking distance of Newcastle town centre. A bus service operates along Clayton Road and the site is also in close proximity to schools, open space and employment opportunities.

4.9 The applicant has satisfactorily demonstrated that an acceptable access can be achieved and the LPA could not, particularly given the views of the HA, demonstrate with evidence that the residual cumulative impacts of the development without a TRO are severe. Therefore, the proposal complies with the guidance and requirements of the NPPF.

#### 5.0 Would the impact on trees and ecology be adverse?

5.1 NLP Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. N12 also states that where, exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

5.2 The site has a number of trees on the site frontage, both side boundaries and the rear boundary that adjoins the Lyme Brook. In particular the site frontage has two mature trees either side of the existing access. The existing access requires modification and the application has been supported by a tree constraints plan and a tree protection plan in this respect.

5.3 The Council's Landscape Development Section (LDS) expressed concerns about the adverse impact and potential loss of a number of trees on the frontage and side boundaries of the application site. However, following the submission of additional/ amended information they now accept the loss of one of the mature trees (T2) adjacent to and on the left hand side of the access (viewed from the road), subject to a replacement tree being provided in the vicinity to retain the tree line on Clayton Road.

5.4 T2 is a sizeable lime tree and the application indicates that it is a category 'C' tree – it is of low value. It is not covered by a Tree Preservation Order and whilst it is a visually significant tree it is considered that on balance the tree can be removed subject to a condition which secures a replacement tree. This would be in accordance with policy N12 and enable a safe access to be achieved that would also result in T3 being retained which is a Horse Chestnut and a category B tree. The application also demonstrates that subject to tree protection measures other trees that are worthy of retention can be retained,

5.5 Landscaping is reserved for subsequent approval and would supplement the existing trees to be retained.

5.6 Ecology reports have also been submitted with protected species being identified but the site is classed as a low to moderate ecological value. The reports indicate that mitigation measures can be proposed within the scheme and overall the development is unlikely to result in harm or loss of protected species, subject to a condition which secures appropriate mitigation measures being submitted.

#### 6.0 Is a footpath link to adjacent public open space necessary and justified?

6.1 The application site is adjacent to the Lyme Valley Parkway which is located beyond the rear boundary. However, there is no direct link from the application site to the public open space because the Lyme Brook separates the two and there are also trees and vegetation on the rear boundary of the site.

6.2 The NPPF at paragraph 75 encourages local authorities to seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

6.3 The applicant has indicated that they have explored the possibility of a footpath link across the Lyme Brook but do not believe this to be feasible for a number of reasons, including that a link would

need to cross third party land and a footbridge from Tansey Way and Brook Lane is already provided which is within a few hundred metres walk of the site.

6.4 The advice of the Council's Landscape Development Section (LDS) has been sought and they consider that the existing footbridge over the Lyme Brook, approved under 11/00010/FUL, is sufficient because it provides direct access to the play area and a new bridge would not shorten the walk significantly.

6.5 A new footbridge would provide a direct link from the application site to the Lyme Valley Parkway and wider public rights of way but any new footbridge is only likely to benefit the future occupiers of the development, as opposed to providing wider community benefits which are considered to be fulfilled by the existing footbridge. Therefore, on balance your officers are of the opinion that a new footbridge is not justified in this instance. Any new footbridge would not shorten the distance to the Lyme Valley Parkway significantly. It would also not improve access to the town centre on foot significantly with the existing arrangements via Clayton Road being considered appropriate.

7.0 Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?

7.1 The layout for the site is a reserved matter but an illustrative layout has been submitted to support the application.

7.2 The land slopes down from Clayton Road to the Lyme Brook at the rear of the site. Existing properties, including 3 storey town houses and an apartment building, are elevated above the site beyond the south-eastern boundary. Two storey dwellings lie to north west.

7.3 The Council's SPG – Space Around Dwellings sets out separation distances between what are termed principal windows of proposed and existing residential properties. A difference in ground levels is also a factor that needs to be considered.

7.4 The illustrative layout broadly appears to comply with the guidance of the SPG but this will need to be considered further when layout and scale are submitted at reserved matters stage.

8.0 What planning obligations are considered necessary, directly related to the development

8.1 Certain obligations are required to make the development acceptable. These are the provision of 25% affordable housing and a contribution of £2,943 (index linked) per dwelling towards public open space.

8.2 The obligations are ones which make the development policy compliant and 'sustainable'. They are considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

8.3 An education contribution has not been requested by Staffordshire County Council in this instance with all catchment schools projected to have sufficient space to accommodate the likely demand from pupils generated by the proposed 24 dwellings.

8.4 It is also necessary to consider whether the financial contribution sought complies with Regulation 123 of the CIL Regulations. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010.

8.5 The Council's Landscape Development Section has requested a contribution towards the enhancement/improvement of Lyme Valley Parkway which is a short walk from the proposed development. There have been no previous planning obligations entered into since April 2010 for a contribution towards this area of Public Open Space and on this basis, it is considered that the proposed financial contribution complies with CIL Regulation 123

## APPENDIX

### **Policies and Proposals in the approved Development Plan relevant to this decision:-**

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

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

### **Other material considerations include:**

National Planning Policy

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(PPG\) \(2014\)](#)

[Community Infrastructure Levy Regulations \(2010\)](#) as amended and related statutory guidance

Supplementary Planning Guidance/Documents

[Developer contributions SPD \(September 2007\)](#)

[Affordable Housing SPD \(2009\)](#)

[Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2016 – Version 1.7

Relevant Planning History

The site has been the subject of a number of previous planning applications related to the previous use of the site as a drug and alcohol rehabilitation centre which ceased in 2016. The buildings and site are now vacant. The last planning permission was for three bungalows for people with learning difficulties ref 03/01108/FUL located to the rear of the site with the existing buildings and use of the site remaining unchanged. That permission was not taken up and has lapsed

Views of Consultees

The **Highways Authority** raises no objections subject to conditions for the submission and approval of access improvement works, swept path drawings for servicing and turning areas, a car parking strategy and cycle provision, means of surface water drainage, surfacing materials and a construction vehicle management plan.

The **Education Authority** states that the proposed development falls within the catchments of Friarswood Primary School, Hassell Community Primary School, St. Giles & St. George's C of E Academy and Clayton Hall Business and Language College. The development is scheduled to provide 24 dwellings. Excluding the 3 RSL dwellings from secondary only, a development of 24 houses including 3 RSLs could add 7 Primary School aged pupils, 5 High School aged pupils and 1 Sixth Form aged pupil. All schools are projected to have sufficient space to accommodate the likely demand from pupils generated by the development.

**Staffordshire County Council Flood Risk Team** indicates that the main source of flood risk at this site is associated with Flood Zone 3 from the Lyme Brook Main River so the Environment Agency should be consulted. The site is not within 5m of an Ordinary Watercourse or 20m of a Flooding Hotspot. The updated Flood Map for Surface Water (uFMfSW) shows that the site is not within the 1 in 100 year event zone. These local sources of flood risk to the site are therefore low.

Following the submission of an amended FRA they now raise no objections subject to a condition which secures a detailed surface water drainage scheme for the site which should include a surface water drainage system, SuDS designed to provide adequate water quality treatment, limiting the discharge rate generated by all rainfall events up to the 100 year plus 40%, detailed drainage calculations, plans illustrating flooded areas and flowpaths in the event of exceedance of the drainage system; and provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development.

The **Environment Agency** raises no objections to the application subject to a condition which secures finished floor levels of the dwellings being set no lower than 112.98 m above Ordnance Datum (AOD) to take into account climate change allowances and mitigate flood risk to the proposed properties.

The **Environmental Health Division (EHD)** advised that in the absence of a desk study and site Reconnaissance the application should be refused. However, full contaminated land conditions are advised as well as the submission and approval of suitable design measures to mitigate noise impact on future occupiers of the dwellings and a Construction Environmental Management Plan.

The **Landscape Development Section (LDS)** originally expressed doubts about whether 'no dig' construction could be achieved to retain certain trees in order to accommodate the improvements to the access from Clayton Road, and the two important trees would be compromised.

Additional/ amended tree constraints/ protection information has been submitted and they now raise no objections subject to a suitable replacement tree to compensate for the loss of one of the above trees, in the vicinity to retain the tree line on Clayton Road. The LDS would want to see, in the event of an outline approval, subsequently a detailed tree survey of the trees that are adjacent to the Brook, a tree protection plan and an Arboricultural Method Statement

If the proposals are permitted it is requested by LDS that a contribution by the developer for capital development/improvement of off-site green space of £1,791 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution £2,943 per dwelling. This would be used for the enhancement/improvement of Lyme Valley Parkway.

**Severn Trent Water** raises no objections subject to conditions which secure full drainage plans for the disposal of foul and surface water and implementation of any agreed scheme.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objection principle of residential dwellings at this application site. The Design and Access Statement references crime prevention and security measures, which is encouraging. The regular-shaped site with a single access to it, flanked on either side by existing housing and with the Lyme Brook providing a natural

barrier to unauthorised intrusion at the rear has the potential for the creation of a secure development. The illustrative layout amongst other things, shows outward facing properties, rear gardens generally backing onto other rear gardens, overlooked and in-curtilage parking, and plenty of natural surveillance throughout. Should outline permission be granted, any reserved matters application should build on this strong illustrative layout, clearly explaining within the Design and Access Statement and demonstrating in the site layout how crime prevention and community safety measures have been considered and incorporated in the design proposal.

**Housing Strategy Section** identifies that the applicant has said that they intend to provide affordable housing; 25% of the development will be affordable. However, the tenure mix of that affordable housing has been incorrectly stated as being 50% social rented and 50% shared ownership. Rather the policy is that 60% should be social rented and 40% should be shared ownership; both units to be transferred and managed by a Registered Provider. The types of properties that will be sought as affordable cannot be precisely determined at outline stage but the requirement will be that as soon as this information becomes available, the Council and the Developer will agree the type of properties to be given as affordable and this will be based upon the principle that the affordable housing should be proportionally reflective of the development as a whole. The design and the standard of construction of the affordable housing should as a minimum be the same as the open market dwellings to be constructed on the development. The affordable housing should not be clustered together on the development and should be sufficiently spread across the development.

The **Waste Management Section, Staffordshire Wildlife Trust and The Newcastle South Locality Action Partnership (LAP)** have been consulted on this application and have not responded by the due date and so it is assumed that they have no comments to make on the application.

#### Representations

Four letters of representation have been received raising objections on the following grounds;

- The proposed development does not accord with the development plan,
- The development would cause safety issues due to the number of dwellings proposed, the proximity to the existing traffic lights, and on street parking affecting visibility from the access.
- The volume of traffic would be significantly increased onto an already busy and hazardous road,
- Access into the site should be taken from the adjoining housing development instead
- Trees and protected species would be adversely affected,
- The dwellings would result in a loss of privacy to neighbouring properties, and
- Substantial noise would be created by new residents,

#### Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Report
- Flood Risk Assessment
- Extended Phase 1 Ecology Report
- Transport Statement
- Coal Mining Risk Assessment
- Landscape Appraisal
- Noise Assessment

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00194/OUT>

#### Background Papers

Planning file  
Planning documents referred to



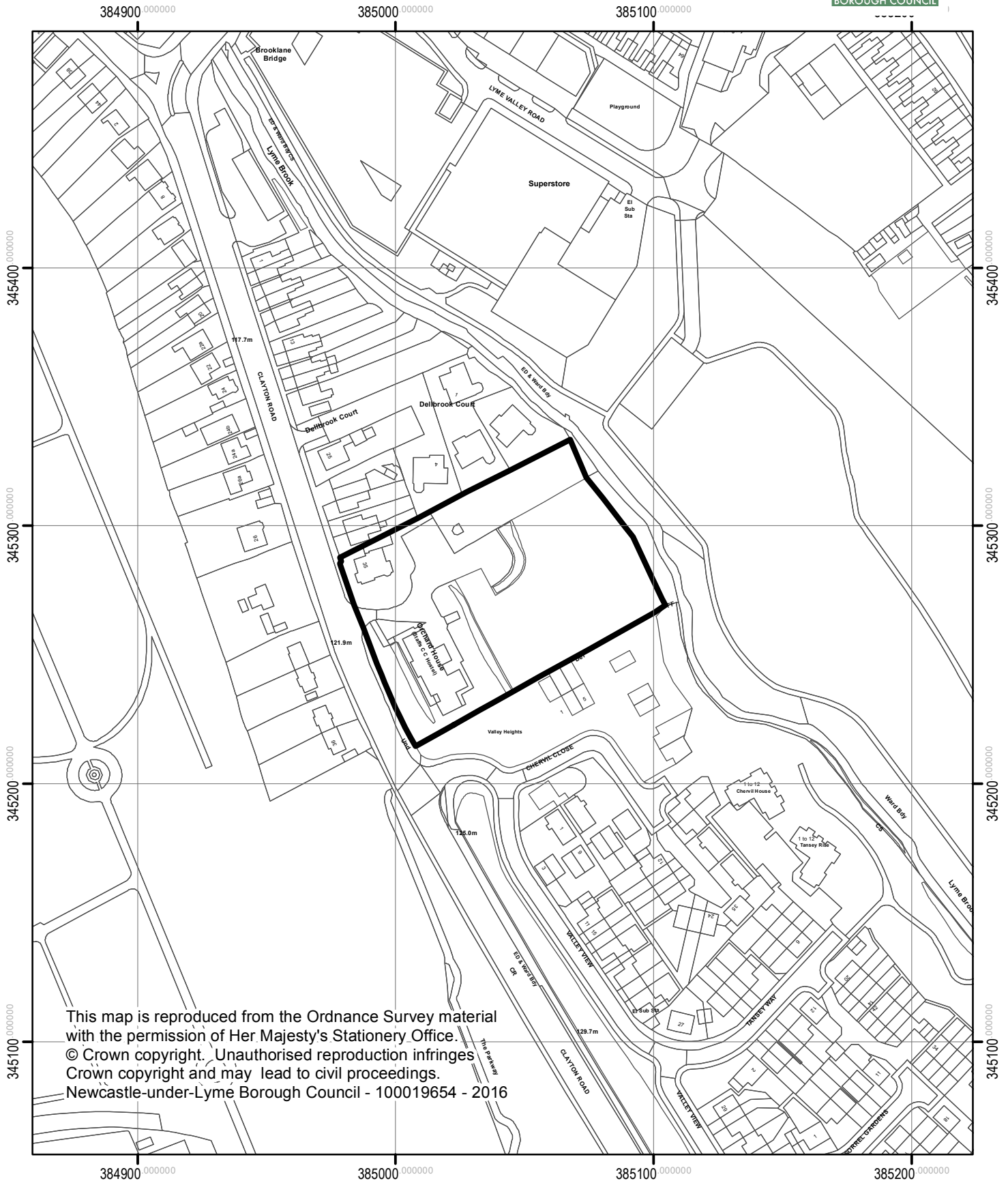
Date report prepared

30th June 2017

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# Orchard House and 35 Clayton Road, Newcastle

17/00194/OUT



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**LAND OFF MEADOW WAY, BALDWIN'S GATE  
BELLWAY HOMES LTD (WEST MIDLANDS)**

**16/01101/FUL**

The application is for full planning permission for the demolition of existing buildings, the erection of 97 houses and 2 bungalows, access, parking and amenity space.

The application site lies outside the village envelope of Baldwin's Gate and within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map. The site area is approximately 4.62 hectares. Part of the public open space comprising a proposed balancing pond lies within the Chorlton Moss Local Wildlife Site.

**The 13 week period for the determination of this application expired on the 23<sup>rd</sup> March 2017.**

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## **RECOMMENDATION**

Subject to the applicant entering into a Section 106 obligation by 25<sup>th</sup> August 2017 to secure the following:

- i. A contribution of £436,706 towards the provision of education facilities at Baldwin's Gate Primary School and Madeley High School
- ii. Provision of 16% of the dwellings as affordable units
- iii. A financial contribution of £334,650 towards the off-site provision of the equivalent of 9% of the number of dwellings as affordable units
- iv. A financial contribution of £291,357 towards off-site public open space improvement and maintenance
- v. A travel plan monitoring fee of £6,430
- vi. Management agreement for the restoration and long-term maintenance of part of the Chorlton Moss LWS
- vii. Management agreement for the long-term maintenance of the open space on the site

Permit subject to conditions concerning the following matters:

1. Standard time limit
2. Approved plans
3. Construction management plan
4. Surfacing of driveways in a bound material and sustainably drained
5. No occupation of the dwellings until a vehicular entrance on Meadow Way has been constructed
6. Implementation of Travel Plan
7. Contaminated land
8. Hours of construction
9. Internal and external noise levels
10. Arboricultural Method Statement
11. Tree Protection Plan
12. Details of special engineering within RPAs
13. Landscaping scheme
14. Submission of a detailed surface water drainage scheme,
15. Development in accordance with the Flood Risk Assessment
16. Development in accordance with the recommendations of the Site Investigation report
17. Details of the disposal of surface water and foul sewage
18. Completion of improvements to the local sewage works and pumping station prior to occupation
19. Boundary treatments
20. Materials
21. Upgrading of the public right of way

B) Should the matters referred to in (i), (ii), (iii), (iv), (v),(vi) and (vii) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure appropriate provision for required education facilities, an appropriate level of affordable housing, the provision and management of public open space both on and off site, appropriate management of the Local Wildlife Site and measures to ensure that the development achieves sustainable development outcomes, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

## **Reason for Recommendation**

In the context of the Council's inability to demonstrate an up to date 5 year plus 20% supply of deliverable housing sites, it is not appropriate to resist the development on the grounds that the site is in within the rural area outside of a recognised rural service centre. The adverse impacts of the development - principally the impact on the Chorlton Moss Local Wildlife Site – do not significantly

and demonstrably outweigh the benefits of the development, particularly when account is taken of the benefits of securing a management agreement for part of the Moss, and accordingly permission should be granted, provided the contributions and affordable housing and the management agreements indicated in the recommendation are secured by planning obligations.

**Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

Additional information has been requested and provided where necessary to progress the determination of the application.

**Key Issues**

1.1 Full planning permission is sought for the demolition of existing buildings, the erection of 97 houses and 2 bungalows, access, parking and amenity space.

1.2 The application site, of approximately 4.62 hectares in extent, is within an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map, in the open countryside outside the village envelope of Baldwin's Gate.

1.3 To the south of the site is Chorlton Moss, which is a Local Wildlife Site.

1.4 Representations have been received stating that the proposed development would be contrary to the developing Neighbourhood Development Plan, Whitmore Village Design Statement & Whitmore Parish Plan. The Neighbourhood Plan is a draft document that has not completed its statutory processes (indeed that draft has yet to be consulted upon) and therefore it is not yet part of the Development Plan. At present therefore it can be given very limited weight.

1.5 The Whitmore Parish Plan is a document that was produced by the Parish Council with no input from the Borough Council. It summarises the views and wishes of the people of the Parish at the time (in April 2005) and although it may well have been the subject of considerable local consultation, it has not been subject to the rigorous procedures of wider consultation, justification and challenge which a Supplementary Planning Document has to go through, has not been adopted by the Borough Council, and accordingly has no formal status in the planning system so it must be considered to be of very limited weight. A further factor that has a bearing on what weight could be given to it is the question of how much it complies with the NPPF. It appears to your officer that it far from accords with the NPPF – for example in its approach to housing development, and its lack of an evidence based approach. It is useful as a statement of local opinion but no more. The Whitmore Village Design Statement was prepared jointly by the Borough Council and the Parish Council in 2002, and adopted as Supplementary Planning Guidance at that time. As such it could have some weight, but again the fact that it dates from over 11 years ago and is based upon policies in the previous version of the Newcastle Local Plan all suggest that it cannot be given more than limited weight.

1.6 Representations have been received expressing concern that the planning application should not be determined due to a restocking notice served on the landowner following the felling of trees on part of the application site. The Notice, which was served by the Forestry Commission under the Forestry Act 1967, requires the landowner to restock the felled area before 30<sup>th</sup> June 2018. The landowner has lodged an appeal against the Notice. The Restocking Notice and the consideration of the appeal is a separate matter to the determination of this planning application and if the planning permission were to be granted, it would supersede the Notice. The existence of the Notice does not therefore prevent the determination of this planning application.

1.7 Taking into account the development plan, the other material considerations indicated above and the consultation responses received, it is considered that the main issues for consideration in the determination of this application are:-

- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?

- Is the loss of agricultural land acceptable?
- Would the development impinge unduly upon levels of residential amenity within adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?
- Would the proposed development have any adverse impact upon highway safety and does it provide appropriate pedestrian access to village facilities?
- Would there be any issue of flood risk or impact on sewage capacity?
- Would there be any significant impact upon any nature conservation interests?
- Is affordable housing required and if so how should it be delivered?
- Will appropriate open space provision be made?
- What planning obligations are considered necessary and lawful?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

2. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

2.1 The application site lies within the Rural Area of the Borough, outside of the village envelope of Baldwin's Gate, in the open countryside.

2.2 Core Spatial Strategy (CSS) Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

2.3 CSS Policy ASP6 states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

2.4 Furthermore, NLP Policy H1 only supports housing in limited circumstances - principally within the urban area of Newcastle or Kidsgrove or one of the village envelopes.

2.5 Baldwin's Gate is not identified in the CSS as one of the Rural Service Centres. It is identified as a village and the CSS indicates that no further growth is planned for the villages and efforts will be made to ensure existing services and activities within the villages are protected. The site is not previously developed land.

2.6 In terms of open market housing, the development plan indicates that unless there are overriding reasons, residential development in villages other than the Rural Service Centres is to be resisted according to CSS Policy ASP6. The adopted strategy is to allow only enough growth to support the provision of essential services in the Rural Service Centres.

2.7 In conclusion, this site is not one of the identified Rural Service Centres nor is it within a village envelope, and the proposed dwellings would not serve an identified local need.

2.7 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47).

2.8 The Council is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore is set out in paragraph 14 of the NPPF which sets out that there is a presumption in favour of sustainable development, and for decision taking this means, *unless material considerations indicate otherwise granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.*



2.9 The examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

2.10 Representations have been received referring to a Housing Needs Assessment (HNA) Report for the Neighbourhood Area (which includes Baldwin's Gate) which concludes that an appropriate range of new housing in that Area during the plan period 2013-2033 is between 50 and 100 dwellings. It states that completed and outstanding residential permissions since 1 Jan 2013 count towards fulfilment of the identified housing need and to date 144 dwellings have been permitted in the Neighbourhood Area since 1 Jan 2013. It is the case however, that at this stage, little weight can be given to any supporting evidence to the Joint Neighbourhood Plan as it is likely to be some time before the Neighbourhood Plan completes its statutory processes. The Draft Neighbourhood Plan is not yet available nor has it, its evidence base, been subject to consultation or to any proper scrutiny by an Examiner. Consequently any evidence prepared in support of the Plan may be subject to further changes and therefore it is considered that at this stage, the documentation carries limited weight. Regard should be paid to the findings of the Inspector in relation to the Tagedale Quarry appeal determined in March of this year (Ref. 15/00015/OUT). In considering the Draft Loggerheads Neighbourhood Plan and the weight that could be given to the associated Housing Needs Assessment, the Inspector advised that the Framework requires housing land supply issues to be assessed over the housing market area as a whole i.e. over a much broader area. Whilst the HNA referred to housing projections for Newcastle-under-Lyme Borough, the Inspector commented that both these and the HNA would be subject to further assessment as the proposed Joint Local Plan and the Loggerheads Neighbourhood Plan progress. Critically the findings of the HNA were not considered to outweigh the shortage in the 5 year land supply which was currently identified within the Borough.

2.11 In sustainability terms, although the site is outside the village envelope of Baldwins Gate, which in any event is not one of the Rural Service Centres identified in the Core Spatial Strategy, your Officer considers that the village represents a relatively sustainable location. It has a primary school, village hall, public house, doctor's surgery, and two shops within walking distance of the site and an hourly bus service linking the towns of Newcastle, Hanley, Market Drayton and Shrewsbury. It is considered therefore that the village is well served by local services and that public transport provision is reasonable. It is the case that the occupiers of the proposed dwellings will be able to access certain services and facilities within walking distance and will also have a choice of modes of transport. Top-up shopping for example, would be obtainable from within the village and accessible from the application site by foot or cycle. It is acknowledged that the bus service does not operate in the evenings or on Sundays but it is considered that the bus service would provide an alternative for those without access to a car for certain trips. There are bus stops within walking distance of the application site.

2.12 Baldwin's Gate has over the years been the subject of several planning appeals where the Local Planning Authority's position as to whether or not it is a sustainable location for residential development has been considered. Three different Inspectors have taken the view that Baldwin's Gate has sufficient facilities to justify a description of a "sustainable location". In particular, and most recently, in allowing an appeal for up to 113 dwellings on Gateway Avenue, Baldwin's Gate (Ref. 13/00426/OUT), the Inspector concluded that although Baldwin's Gate performs less well than other, larger settlements in terms of accessibility and range of facilities, it can be regarded as a reasonably sustainable location.

2.13 Although this site is outside the village envelope, it would still be close to existing facilities. The centre of the site would be approximately 270m from the primary school, approximately 750m from the village shop, and approximately 400m from the nearest bus stops. The national recommended distance for a suitable walking distance from a property to a bus stop is 400m and Manual for Streets advises that walkable neighbourhoods are typically characterised as having facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot.

2.14 These points undoubtedly weigh in favour of a conclusion that in terms of access to some facilities and a choice of mode of transport, the site can be described as being in a sustainable

location. Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.

2.15 The applicant's agent states that social benefits are the contribution towards the supply of deliverable housing land and towards meeting the area's affordable housing needs. He states that economic benefits are the provision of construction jobs and the contribution of the increase in population to the local economy. In terms of the environmental dimension, the agent states that the site is well situated within a low lying part of the village and contained by existing development and landscaping, it would have no impact on flooding and the proposed landscaping would contribute to biodiversity.

2.16 It is the case that the development would undoubtedly create associated construction jobs and the construction of housing in the rural area in a district that does not have a five year supply of housing. The development would fulfil a social role by delivering a mix of market housing and affordable housing in the rural area and the issue of the environmental impact of the scheme will be considered fully below.

3. Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?

3.1 The application is for full, rather than outline, planning permission. CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. It states that new development should protect important and longer distance views of historic landmarks and rural vistas and contribute positively to an area's identity and heritage (both natural and built) in terms of scale, density, layout, use of appropriate vernacular materials for buildings and surfaces and access. This policy is considered to be consistent with the NPPF.

3.2 The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) has been adopted by the Borough Council and it is considered that it is consistent with the NPPF and therefore, can be given weight. Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

3.3 RE5 of the SPD states that new development in the rural area should amongst other things respond to the typical forms of buildings in the village or locality and that new buildings should respond to the materials, details and colours that may be distinctive to a locality.

3.4 R12 of that same document states that residential development should be designed to contribute towards improving the character and quality of the area. Proposals will be required to demonstrate the appropriateness of their approach in each case. Development in or on the edge of existing settlements should respond to the established urban or suburban character where this exists already and has a definite value. Where there is no established urban or suburban character, new development should demonstrate that it is creating a new urban character that is appropriate to the area. R13 states that the assessment of an appropriate site density must be design-led and should consider massing, height and bulk as well as density. R14 states that developments must provide an appropriate balance of variety and consistency.

3.5 A mix of 1, 2, 3, 4 and 5-bed dwellings are proposed with a mix of detached, semi-detached and townhouses proposed. All the dwellings would be 2-storey. The Design and Access Statement states that the site would comprise three character areas which would have differing spatial characteristics to create distinctive environments. A corridor of public green space is proposed centrally to promote views outwards of the site towards open countryside.

3.6 There is a mix of dwelling size and style in the area. To the west of the site, Meadow Way and Pasture Close comprise a mix of 2-storey detached dwellings and bungalows. Fairgreen Road to the north is characterised by relatively modern detached dwellings and to the south-west of the site there are larger detached dwellings in spacious plots on the Lakeside Close development. Residential patterns vary within the village and densities vary between 8 and 17 dwellings per hectare. The Gateway Avenue development that is currently under construction has a density of 26 dwellings per hectare. The density of the proposed scheme here would also be approximately 26 dwellings per hectare.

3.7 The materials would comprise three different but complementary facing brick types and roof tiles and ivory render to ensure variety but a consistency of style. Detailing would be simple and unfussy with gable features, bay windows, brick soldier courses and canopies. Double-frontage dwellings are proposed at prominent locations, providing focal points and features to enhance legibility through the development. Properties would be set back from the pavement to allow for limited frontage landscaping. Parking would be provided in front of or to the side of dwellings, with some dwellings also provided with a garage.

3.8 In consideration of the scheme at the pre-application stage, MADE's Design Review Panel considered that the way that the analysis of the site and its opportunities and constraints had been used to inform the main structure and features on the site was a sound and logical response. They considered that the area that needed to be focussed on was creating a sense of place within the design which it was felt was lacking at that time mainly due to conventional road design and distribution of houses along them. The Panel suggested that more thought be given to using local design features found in the older parts of the village, e.g. chimneys, porches, window details and materials.

3.9 Your Officer's view is that given the variety of dwelling size, density and style currently in the village, the proposed scheme both respects local character and optimises the potential of the site to accommodate development. The proposed development would achieve a mix of housing types and would help to deliver a wide choice of homes and create a sustainable, inclusive and mixed community as required by the NPPF. Notwithstanding the views of MADE, it is considered that the design of the dwellings and the materials' palette proposed would provide a consistency throughout the site and would also provide sufficient articulation and focal points to create variety and interest in the streetscene. The layout and density of the proposed scheme and the proposed house types reflect local character and it is considered that the proposal would be acceptable in terms of its design and impact on the form and character of the area.

3.10 CSS Policy CSP4 indicates that the location, scale, and nature of all development should avoid and mitigate adverse impacts (on) the area's distinctive natural assets and landscape character. This policy is considered to be consistent with the NPPF which states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

3.11 The site is located to the south-east of Baldwin's Gate adjacent to the existing built form. To the north and west there is existing residential development, to the north-west is Baldwin's Gate Primary School and to the south there is an extensive area of woodland. To the east of the site is open countryside. There are a number of public rights of way in the vicinity including one along the northern boundary of the site to the rear of the gardens on Fairgreen Road and another to the south and south-west of the site.

3.12 A Landscape and Visual Impact Assessment (LVIA) has been submitted to accompany the application. It concludes that whilst localised views will be adversely affected by the development, it will blend with the existing village in longer distance views and additional landscaping will soften and blend the development into the existing village edge form.

3.13 The site abuts the existing village edge and the existing residential development surrounding the site on two sides, and views from the south are limited due to the extensive woodland. Although some longer distance views would be gained from public rights of way, the development would be viewed against the backdrop of the existing village and the proposed landscaping would assimilate the

proposals into the landscape. Overall, it is considered that the development would have limited effect on the wider landscape character.

#### 4. Is the loss of agricultural land acceptable?

4.1 Paragraph 112 of the NPPF states that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.

4.2 The best and most versatile land is defined as that which lies within Grades 1, 2 and 3a. An Agricultural Land Quality Assessment based upon a field survey has been submitted with the application which concludes that the majority of the site comprises Grade 3b agricultural land (moderate quality) with three small areas (0.7ha) of better drained, raised ground comprising Grade 2 agricultural land (very good quality).

4.3 The paragraph of the NPPF referred to above refers to 'significant' development of agricultural land but no definition of 'significant' is provided. In this case the Grade 2 agricultural land is in three small parcels, the largest of which extends to 0.4ha divided across two pasture fields. The other two parcels are located on a small area of higher ground at the north of the site surrounded by lower land of Grade 3b quality and surrounding a group of farm buildings. The submitted Assessment states that the small pockets of Grade 2 land are scattered across the site and cannot be farmed separately from the dominant Grade 3b land. The waterlogged soils will limit the choices of cropping and agricultural land use across the site and the Assessment concludes that whilst the site contains a small quantity of best and most versatile agricultural land, it cannot be exploited to its full potential and will be farmed to reflect the dominant Grade 3b land.

4.4 Your Officer considers that given the relatively small amount of the site that comprises best and most versatile agricultural land and given its dispersed nature, it cannot be concluded that its loss would have any significant adverse impact.

#### 5. Would the development impinge unduly upon levels of residential amenity within adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the houses themselves?

5.1 One of the core planning principles of the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

5.2 The Crewe to Stafford Railway Line (West Coast Mainline) runs to the north of the site to the other side of the dwellings on Fairgreen Road but at the north-eastern corner of the site there is a view of the railway line in a partial cutting. A Noise Report which accompanies the application recommends particular design measures and solid garden fencing for those plots in the north-eastern corner of the site. For the remainder of the site acceptable noise levels are achieved.

5.3 The Environmental Health Division has no objections to the proposal subject to the imposition of conditions including a requirement for further noise assessment and appropriate mitigation measures.

5.4 With respect to the interrelationship of the proposed dwellings with the existing properties, it is considered that sufficient distance would be achieved to comply with the Council's Space Around Dwellings SPG.

5.5 The proposed dwellings would generally provide amenity areas which comply with the lengths/areas recommended in the SPG. Although there are a limited number of dwellings that have a garden length or area marginally less than the recommended figures, the level of private amenity space would be sufficient for the family dwellings proposed.

5.6 Overall, it is not considered that a refusal could be sustained on the grounds of adverse impact on residential amenity.

6. Would the proposed development have any adverse impact upon highway safety and does it provide appropriate pedestrian access to village facilities?

6.1 The site would be accessed by extending Meadow Way into the site. This would require the demolition of No. 1, Pasture Close which would enable Meadow Way to be diverted south of the existing pumping station. In addition, an emergency vehicle and pedestrian access would be provided at the north-eastern corner of the site from Fairgreen Road. The use of this access by vehicles would be controlled by means of removable bollards.

6.2 Concerns have been raised by residents on the grounds that the junction of Meadow Way with the A53 is poor and that due to its restricted width, Meadow Way is not suitable for development or construction traffic. It is also stated that Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised and concerns are expressed that the proposal will add to the traffic and safety problems in Baldwin's Gate.

6.3 The application is accompanied by a Transport Assessment (TA) which states as follows:

- Meadow Way and Tollgate Avenue have sufficient width to accommodate the additional traffic that would be generated.
- The proposed development is not expected to add to levels of on-street parking and the volume of traffic generated by the scheme is not expected to give rise to a significant impact on the free and safe movement of traffic or pedestrians in the area.
- The available visibility splays at the junctions of the A53 with Meadow Way and Tollgate Avenue are appropriate to the prevailing 30mph speed limit and measured 85<sup>th</sup> percentile vehicle speeds on the A53. The geometry of these junctions is therefore considered suitable to accommodate the development.
- Available records of personal injury accidents show that there is no evidence of any road-safety related issues immediately adjacent to the site.
- The proposed development would have no material impact on the surrounding highway network.
- All key junctions within the local area would be more than capable of accommodating forecast traffic flows with the proposed development in place.
- The impact of the development during the construction phase has been considered and preliminary proposals for the management and mitigation of these impacts have been presented in the form of an outline Construction Traffic Management Plan.

The Assessment concludes that the proposed development can be satisfactorily accommodated by the adjacent transport network and that there are no issues that would prevent a suitably conditioned detailed planning consent from being granted.

6.4 The Highway Authority initially commented that the TA as originally submitted was inadequate and that insufficient data had been submitted to support the proposal. A revised TA has been submitted and the Highway Authority raises no objections to the application subject to the imposition of conditions.

6.5 Although representations have been received on the grounds that the junction of Meadow Way and the A53 is poor in both visibility and geometry, the Highway Authority accepts the conclusion in the TA that all key junctions within the local area would be more than capable of accommodating forecasted traffic flows with the proposed development in place. They comment that whilst in reality vehicles could use Tollgate Way rather than Meadow Way, the traffic has been loaded onto the junction of Meadow Way and the A53 to ensure a robust assessment.

6.6 The TA also includes a detailed parking survey of the roads surrounding the site. The parking survey highlights that most of the parking associated with the school is concentrated around the school entrance and in the last 10 minutes of the morning peak hour. The Highway Authority considers that given the location of the application site, it is unlikely that the future occupants of the housing development will park outside the school.

6.7 Representations have been received raising concerns with regard to the impact of construction traffic on Meadow Way and a video has been submitted showing an HGV turning into roads serving

the site. The applicant's Highway Consultant has also submitted track runs of various size vehicles turning into and out of the junction on Meadow Way. The information submitted shows that it is possible to use this junction albeit requiring vehicles to utilise the whole of the highway. The Highway Authority has no objections to this subject to a condition requiring a Construction Environment Management Plan (CEMP) which could ensure that any manoeuvres by large HGVs during construction are outside of school hours and under the supervision of a banksman.

6.8 The NPPF indicates (in paragraph 32) that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are *severe*. Whilst it is the primary responsibility of the LPA to either accept or reject advice from statutory consultees such as the Highway Authority, it has to understand the basis for doing so, and it is required to give thorough consideration to that advice. The Highway Authority does not raise objections to the application and your Officer's view is that subject to the imposition of conditions the impact of the proposed development on highway safety would not be severe and therefore an objection on such grounds could not be sustained.

6.9 In terms of accessibility to the services within the village, the dwellings at the eastern end of the site would be able to use either the pedestrian access to Fairgreen Road or the existing public footpath to the rear of the dwellings on Fairgreen Road. Whitmore Parish Council states that the public right of way is already unsuitable for the current levels of footfall due to its condition which causes it to be waterlogged following rainfall, difficult to negotiate and impassable in places. The Parish Council believes that the proposed development would exacerbate this situation and therefore the public right of way should be resurfaced.

6.10 It is the case that the public footpath requires some improvements to its surface and it is considered that linkages from the site to the village would help to reduce the requirement for residents to use their cars and would help to ensure a sustainable development. In respect of the ability of the developer to do such works, the public footpath is outside of their ownership, but the Highway Authority has the right, regardless of who owns the land, to provide an appropriate surface and they can consent to others – i.e. the developer – to undertake such works. A condition requiring works of improvement to the surface of the path would accordingly be reasonable. Whilst it is not considered that there is a highway safety case for such works, such upgrading should be secured on the grounds of achieving a sustainable form of development.

## 7. Would there be any issues of flood risk or sewage capacity?

7.1 A Flood Risk Assessment (FRA) submitted to accompany the application concludes that there is a minimal risk of flooding to the development from any nearby fluvial sources or from local drainage infrastructure. It states that the new surface water drainage systems will provide protection from surface flooding under the critical 100 year rainfall event and appropriate sustainable drainage systems will be included where practical to improve the quality of surface water run-off.

7.2 The Lead Local Flood Authority (LLFA) initially raised concerns regarding potential flood risk and surface water drainage for the site. Further information and analysis has been submitted and the LLFA now considers that the proposed development will be acceptable subject to a number of conditions requiring the submission of a detailed surface water drainage scheme, development to be carried out in accordance with the FRA and additional information submitted and development to be carried out in accordance with the recommendations of the Site Investigation Report.

7.3 The LLFA does however highlight that there will be wider implications as a consequence of the drainage works including peat removal, ground raising, location of the attenuation basin within the Chorlton Moss Local Wildlife Site and impact on the Moss of hydraulic changes to the groundwater. The impact on Chorlton Moss will be considered in detail below.

7.4 Concerns have been raised by residents on the grounds that the sewage pumping station and sewage treatment works are already overloaded and more properties would add to the problem which could affect existing properties. Severn Trent Water has recommended a condition requiring that the development is not occupied until the scheme to improve the local sewage works and associated ancillaries (by which they mean the pumping station) is completed which is anticipated to be by the end of April 2020.

7.5 The applicant's agent has responded to the request for such a condition stating that it is not considered that it meets the six tests as it not necessary, relevant to planning or to this specific development, enforceable, precise or reasonable. They state that it would delay the delivery of the housing and would place an unreasonable impact on the deliverability of the development for the applicant from a financial perspective. They go on to state that Severn Trent Water has statutory duties under the Water Industry Act 1991 to provide foul sewage connections for the development and ultimately if there are capacity issues at present then they would be obligated to bring forward further capacity in order to meet their statutory duties. Finally, it is stated that if such a condition is imposed, it is likely that the applicant may choose to appeal against it.

7.6 It is the case that all water utility companies have a legal obligation to provide developers with the right to connect to a public sewer regardless of capacity issues. The issue is that the right to connect can be exercised on 21 days' notice which is insufficient time for the sewerage undertaker to ensure that sufficient capacity exists. Severn Trent Water has referred in correspondence to the Barratt Homes Limited v Welsh Water Supreme Court Judgement (2009) which affirmed the use of Grampian (or negatively worded) conditions as an appropriate means of dealing with the management of new connections into the sewerage network. That Judgement stated as follows:

*The planning authority can make planning permission conditional upon there being in place adequate sewerage facilities to cater for the requirements of the development without ecological damage. If the developer indicates that he intends to deal with the problem of sewerage by connecting to the public sewer, the planning authority can make planning permission conditional upon the sewerage authority first taking any steps necessary to ensure that the public sewer will be able to cope with the increased load. Such conditions are sometimes referred to as Grampian conditions after the decision of the House of Lords in Grampian Regional Council v Secretary of State for Scotland [1983] 1 WLR 1340. Thus the planning authority has the power, which the sewerage undertaker lacks, of preventing a developer from overloading a sewerage system before the undertaker has taken steps to upgrade the system to cope with the additional load.*

7.7 Severn Trent Water has advised that it has strong concerns that if the proposed development is permitted before the necessary improvement works to the local sewage works are carried out, the system would become overloaded. Having considered the Supreme Court Judgement, your Officer's view is that a condition as recommended by Severn Trent Water would meet the necessary tests and should be imposed.

## 8. Would there be any significant impact upon any nature conservation interests?

8.1 The NPPF states that the planning system should contribute to and enhance the natural and local environment by:

- Protecting and enhancing valued landscapes, geological conservation interests and soils;
- Recognising the wider benefits of ecosystem services;
- Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

8.2 It goes on to state that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles including the following:

- if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

8.3 To the south of the site is Chorlton Moss Local Wildlife Site (LWS) which is one of only two raised bogs in Staffordshire, and is part of a wider network of Meres and Mosses. Discussions have taken

place between your Officers, Staffordshire Wildlife Trust (SWT), the applicant and their Ecology Consultants and additional information has been submitted during the course of the application including an addendum Ecology Report and a Management Plan for the LWS.

8.4 The proposed development includes the siting of a sustainable drainage feature (a drainage attenuation basin) within the LWS and SWT objects to the proposal on a number of grounds including that the siting of the attenuation basin within the Moss is unacceptable and would not be compatible with raised bog restoration. The applicant's Ecologist has responded with the following points:

- The drainage attenuation basin is a wetland feature which can support a wet grassland/mire species composition
- Suitable mitigation has been proposed to prevent additional desiccation of the peat layer within the LWS (use of clay lining) and the basin would discharge into the surrounding peat deposit as it reached capacity
- The proposals would not reduce the volume of water reaching the LWS through the existing ditch along its northern boundary. Thus, the development proposals would not have a net adverse effect on ground water levels associated with the LWS.
- The development proposals would also result in impacts to peat substrate (losses) outside of the LWS boundary but it does not follow that impacts to the wider peat deposit will lead to further degradation of the LWS
- The hydrological function of the LWS would not be impeded. The volume of water 'charging' the peat deposit associated with the LWS would not be reduced as there would be no significant impact on flow rates associated with the ditches which feed the LWS
- The impact of the development on the LWS is the creation of a wetland feature within what is now scrub/woodland habitat which has developed on a raised bog accepted as being degraded. It cannot hold that this represents an adverse impact on Chorlton Moss LWS.

8.5 Following consideration of the addendum Ecology Report, SWT consider that there are a number of areas within the proposal site and in the field to the south which qualify as some kind of LWS although they state that further information would be required to decide the level and areas of LWS value.

8.6 The submitted Management Plan identifies management initiatives to be delivered within the LWS and describes the measures which will be delivered in respect of restoring an area of acid grassland within the LWS. The broad management objectives are tree removal, restoration and maintenance of the acid grassland area, removal of non-native Rhododendron, maintenance of the new wetland area as a bog/open water mosaic, ditch blocking, installation of dip wells and undertaking of a hydrological survey/monitoring exercise. SWT state that whilst the restoration proposals are generally suitable in principle, they consider that the area is not large enough to compensate for complete loss of the LWS grassland. They estimate the area of acid grassland restoration to be 0.6ha but state that this is too small stating that restoration areas for compensation need to be around twice the size of habitat loss as the habitat to be restored already has some value so the amount of gain one can achieve per hectare is not as great as creating valuable habitat from nothing.

8.7 The size of the area to be restored is approximately 0.8ha which is nearly but not quite twice the size of the area of habitat loss. The recommendations are similar to those listed in a 2009 report that was produced following research and feasibility appraisal work funded by Natural England in respect of the management and restoration of key wetland features in Shropshire, Cheshire and Staffordshire which presented a 'Wetland Vision' for the area.

8.8 It is the case that the proposed development would result in both direct and indirect impacts on the Chorlton Moss LWS. This must be considered to be a material consideration that weighs against the proposals. However, the measures outlined in the Management Plan would provide some ecological enhancements in the LWS, which otherwise are extremely unlikely to be achieved, given the view of the landowner, , and would go some way to mitigating against the adverse impacts. The development can therefore be seen as an opportunity to secure restoration of at least some of LWS to how it should be, and a Management Plan could be secured by a planning obligation. Whether the direct adverse impact on the LWS and any other adverse impact would significantly and demonstrably outweigh the benefits will be considered at the end of this report.



9. Is affordable housing provision required, if so how should it be delivered and is the type and siting of the affordable units acceptable?

9.1 CSS Policy CSP6 states that residential development within the rural area, on sites of 5 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

9.2 This application proposes 99 dwellings and at 25% provision for affordable housing, 25 affordable dwellings would be required. On this site a hybrid approach is proposed with 16% of the affordable housing obligation provided on site (16 dwellings in total) with the remaining 9% (9 dwellings) delivered by a commuted sum for provision elsewhere in the Borough. The applicant states that this approach is in line with the recently approved development on Gateway Avenue, Baldwin's Gate.

9.3 Paragraph 50 of the NPPF states that where they have identified that affordable housing is needed, local planning authorities should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. The Council's Developer Contributions SPD states that whilst affordable housing should be provided on the application site so that it contributes towards creating a mix of housing, where it can be robustly justified, off site provision or the obtaining of a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted. The SPD suggests that one of the circumstances where offsite provision may be appropriate is where the Council considers that "the provision of completed units elsewhere would enable it to apply the contribution more effectively to meet the Borough's housing need".

9.4 It is the case that in allowing the Gateway Avenue appeal (Ref. 13/00426/OUT) the Inspector accepted the proposed hybrid approach as appropriate on the grounds that the Council had no up-to-date needs survey for Baldwin's Gate to justify the 25% on-site provision and acknowledged the high level of need for such housing in other areas of the Borough.

9.5 The Council's Housing Strategy Section agrees that the proposed hybrid approach is appropriate and refers to the Council's most up-to-date needs information which is within the Strategic Housing Market Assessment for Stoke-on-Trent City Council and Newcastle-under-Lyme Borough Council (July 2015). The document apportions the net annual affordable housing need into sub areas and for the Rural South area (which includes Baldwin's Gate) the need is 9% of the overall Borough-wide need. The Housing Strategy Section considers that the proposed approach would allow both affordable housing need within the Rural South to be met along with provision where there is demonstrably greater need.

9.6 Your Officer concurs and it is considered that a proportion of the required affordable housing provision could be secured by means of a financial contribution to off-site provision. It is critical that calculation of the level of financial contribution fully takes into account the real difference between the costs of offsite and onsite provision, so that there is no financial benefit to the developer in proceeding in this way. The advice of the District Valuer has been received regarding the sum to be required and it has been calculated to be £334,650. Your Officer is satisfied that the sum is of broadly equivalent value to the cost to the developer of on-site provision.

9.7 In relation to house types, the Council's Affordable Housing SPD states that the starting point will be that developers would be expected to provide the affordable housing within a development across the same range of housing types as the market housing on a pro rata basis. It also states however that where there is an opportunity to provide for specific dwelling types where evidence indicates a particular need, this will be pursued. The affordable units would comprise a mix of 1, 2 and 3-bed units and the Housing Strategy Section considers that this is an appropriate range with greater emphasis on smaller properties which would assist a diverse range of households from single persons to starter families to meet their affordable housing need.

9.8 In terms of design and layout requirements the SPD states that to ensure the creation of mixed and integrated communities the affordable housing should be seamlessly integrated and distributed throughout the development scheme consisting of only small groups. It should not be distinguishable

from market housing in terms of location, appearance, levels of amenity space, privacy and build quality and materials. It states that there should generally be no more than 10 affordable units in one cluster but states that there will be a certain degree of flexibility and that the Council will negotiate the distribution of the affordable dwellings across the site to ensure the creation of balanced and sustainable communities whilst also taking into account housing management and overall site development issues.

9.9 In the plan as originally submitted, the affordable units were proposed in two groups in the north-eastern part of the site. Amended plans were subsequently submitted showing three clusters of affordable units with two clusters in the north-eastern part of the site and a smaller group adjacent to the rear boundary of the school playing fields. Your Officer remained concerned that the affordable units were not sufficiently distributed across the site and the developer responded by submitting revised plans showing a group of three units at the entrance to the site. The Housing Strategy Section considers that the affordable units are now sufficiently 'pepper-potted' across the site and your Officer is satisfied that the scheme accords with the SPD in that the units would not be distinguishable from the market housing in terms of location, appearance, levels of amenity space, privacy and build quality and materials.

#### 10. Will appropriate open space provision be made?

10.1 NLP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured.

10.2 An area of public open space is proposed in the southern part of the site incorporating a SUDs water feature and a diverted stream. The Design and Access Statement that accompanies the application states that it has been designed as a corridor orientated west to east to extend sight lines across and out of the site.

10.3 The Landscape Development Section has raised concerns that the area shown for public open space provides little meaningful public use and should be developed further.

10.4 The applicant has responded to state that the area of public open space proposed will provide amenity space for new residents as well as buffering the main part of the development from the Chorlton Moss Local Wildlife Site. A significant commuted sum of £2,943 per dwelling has been requested that will go towards improving the existing play facilities within Baldwin's Gate. It is stated that it has not been possible to re-design the area of open space due to the constraints of the site, namely the level changes between the proposed dwellings and the open space and the siting of the balancing pond adjacent to Chorlton Moss. The applicant also refers to the need to use land efficiently for housing development.

10.5 Although it is the case that part of the open space area proposed within the site would not be useable due to the location of the balancing pond, part of the area would be publicly accessible and it would provide an attractive amenity feature. The applicant has agreed to pay a financial contribution towards off-site public open space which would be used for improvements to the open space and play facilities at Whitmore Village Hall. It is not considered therefore that an objection could be raised to the open space provision that is proposed.

#### 11. What planning obligations are considered necessary and lawful?

11.1 Section 122 of the Community Infrastructure Levy (CIL) Regulations states that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

11.2 The applicant has confirmed their willingness to agree to the provision of 25% affordable housing (16% on site with the remaining 9% delivered off-site). In addition, the Highway Authority has requested a travel plan monitoring fee of £6,430, the Landscape Development Section (LDS) has requested a contribution of £291,357 towards off-site public open space (£2,943 per dwelling) as

indicated above and Staffordshire County Council as the Education Authority has requested a sum of £436,706 for both primary and high school places. As discussed above, it is considered necessary that a management agreement is required for the restoration and long-term maintenance of the Chorlton Moss LWS and in addition, for the long-term maintenance of the open space on the site. These are all considered to meet the tests identified in paragraph 204 of the NPPF and are compliant with Section 122 of the CIL Regulations.

11.3 However, it is also necessary to consider whether the financial contributions comply with Regulation 123 of the CIL Regulations. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010.

11.4 As indicated above Staffordshire County Council has requested an education contribution towards the provision of high school spaces - at Madeley High School. More than 5 obligations have already been entered into providing for a contribution to Madeley High School. The first five obligations that have been entered into since April 2010 in which an education contribution has been secured for Madeley High School, will be utilised towards a project to provide 2 additional classrooms, which will be attached to the dining room, which will also need to be expanded. Any subsequent planning obligations, including the one now being sought, will be for a different project or projects than mentioned above so compliance with Regulation 123 would be achieved. None of the other contributions raise the same issue.

12. Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

12.1 In consideration of the above points, the development would result in some adverse impact on the Chorlton Moss Local Wildlife Site. However, the proposal represents sustainable development which would make a sizeable contribution towards addressing the significant undersupply of housing in the Borough. It is considered therefore that the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. It is therefore considered that the proposal accords with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF. On this basis planning permission should be granted provided the required contributions are obtained and appropriate conditions are used, as recommended.

## APPENDIX

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

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

Policy SP1	Spatial Principles of Targeted Regeneration
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
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N8	Protection of Key Habitats
Policy N17	Landscape Character – General Considerations
Policy N21	Areas of Landscape Restoration
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

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

National Planning Policy

National Planning Policy Framework (NPPF) (2012)

Planning Practice Guidance (March 2014)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

Supplementary Planning Guidance/Documents

Whitmore Village Design Statement SPG (2002)

Developer contributions SPD (September 2007)

Affordable Housing SPD (2009)

Space Around Dwellings SPG (SAD) (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)

Relevant Planning History

None

Views of Consultees

The **Highway Authority** has no objections subject to conditions requiring the submission and approval of a Construction Environmental Management Plan, surfacing of driveways in a bound material and sustainably drained, and no occupation of the buildings until a vehicular entrance on Meadow Way has been constructed. A travel plan monitoring sum should be secured via a legal agreement.

The **Environmental Health Division** has no objections subject to conditions regarding hours of construction, construction environmental management plan, mud on roads, internal noise levels and contaminated land.

Staffordshire County Council as the **Rights of Way Authority** has advised that there is a public footpath which runs adjacent to the site and any planning permission given does not give the developer the right to divert, extinguish or obstruct any part of the public path.

The **Landscape Development Section** is concerned that the proposals encroach on the woodland of Chorlton Moss and that trees have been removed to clear the area of the proposed balancing pond. Chorlton Moss is a valuable woodland of high visual amenity and has been damaged by this action. The loss of the protective trees on the perimeter could lead to further losses through windthrow. It is acknowledged that in order to retain the ecological value of the moss, thinning of trees would be required to prevent the soils becoming too dry however this should be done as part of a considered management plan and take into account the amenity value of the woodland.

The area shown for public open space provides little meaningful public use and should be developed further. Public access should be improved and the area developed to provide alternative activities. Subject to this, no objection is raised in principle to the landscaping proposals although some shrub planting densities appear to be light and may need to be increased. Permission should be subject to conditions requiring provision of an Arboricultural Method Statement, Tree Protection Plan and details of special engineering within RPAs. A contribution of £291,357 is requested towards off-site public open space (£2,943 per dwelling) is requested which would be used for improvements to the open space and play facilities at Whitmore Village Hall.

The **Education Authority** states that the development falls within the catchments of Baldwin's Gate CE (VC) Primary School and Madeley High School. The development could add 20 primary-aged pupils, 13 high school aged pupils and 3 Sixth Form aged pupils. All schools are projected to be full for the foreseeable future and therefore a contribution is sought towards primary and secondary school provision. A contribution for 20 primary school places (20 x £11,031 = £220,620) and 13 high school places (13 x £16,622 = £216,086) is sought giving a total request of £436,706.

The **Crime Prevention Design Advisor** states that crime prevention has featured significantly as part of design considerations. The northern boundary where rear gardens will back onto the existing footpath is worthy of reconsideration. It would be better if the section of footpath behind plots 13-30 was re-routed through the development and incorporated into the rear gardens. If this is not possible, the garden boundaries should be reinforced externally with defensive planting.

Staffordshire County Council as **Minerals and Waste Planning Authority** states that the site lies within a Mineral Safeguard Area proposed in the new Minerals Local Plan. The minerals are superficial sand and gravel. The proximity of the development to the existing settlement means that it is unlikely that any underlying minerals could be worked in an environmentally acceptable manner in the foreseeable future. Therefore, no objection is raised.

**Network Rail** states that the proposal has the potential to impact upon Network Rail land and infrastructure via the surface water and foul water drainage proposals and therefore the developer will need to confirm matters relating to surface runoff and foul sewage to Network Rail. If a sustainable drainage and flooding system is to be included then the issue and responsibility of flooding and water saturation should not be passed onto Network Rail and its land. Reference is also made to Network Rail's right of access through the site.

The **Housing Strategy Section** states that the proposed 16% on site affordable housing and the 9% off site contribution split is acceptable allowing affordable housing need which arises within the Rural South to be met along with provision where there is demonstrably greater need. The mix of affordable rented and shared ownership is considered consistent with policy and an appropriate range of bedroom sizes with greater emphasis on smaller properties is proposed which would assist a diverse range of households to meet their affordable housing need. The space standards are appropriate and with regard to the amended plan, there would be sufficient 'pepper-potting' of the units across the site.

The **Lead Local Flood Authority** states that in their previous responses they raised a number of concerns regarding potential flood risk and surface water drainage for this site. Further information and analysis has been submitted and the consultants conclude that the risks can be adequately mitigated through engineering works and the drainage strategy that will be implemented. In summary:

- The channel and proposed culverts have sufficient capacity to avoid flood risk.
- Further analysis of the site topography has concluded that existing overland flow routes will be retained across surrounding land with ground and floor levels within the development raised to mitigate flood risk. The final boundary treatment at the attenuation pond will potentially impact on adjacent land drainage and the desired outcome would need to be agreed.
- The Site Investigation Report concluded that peat removal and replacement with engineered soils will be required to avoid instability and potential groundwater issues.
- Part of the site lies within the Chorlton Moss Local Wildlife Site (LWS) and the location of the attenuation basin within the designated area will result in the loss of some of this area. Development of this site could also impact the adjacent Chorlton Moss site indirectly through hydraulic changes to the groundwater. Staffordshire Wildlife Trust has raised concerns that the location of the SuDs pond within the Chorlton Moss boundary is inappropriate. Substantial measures will be required to address the potential issues and therefore conditions are recommended to ensure that these are carried out. There will be wider implications as a consequence of these measures that the LPA will need to consider when making their decision. Some of the wider implications that the LPA should take into consideration are as follows:
  - Waterlogged ground – the Site Investigation Report identified that peat removal and replacement will be required to avoid instability and potential groundwater issues. Whilst this will be necessary from a flood risk and drainage perspective it will require substantial movements of material to and from the site and ecological implications will need to be considered.
  - Ground raising – information indicates that ground levels and finished floor levels will be raised significantly in some areas which will aid drainage of the site by gravity and mitigate surface water flood risk. A continued overland flow route to the watercourse from the south has been demonstrated but the final form of the attenuation pond could have implications for land drainage and would need agreement.
  - Impact on the Chorlton Moss LWS as referred to above.
- Conditions are recommended requiring the submission of a detailed surface water drainage scheme, development to be carried out in accordance with the Flood Risk Assessment and development to be carried out in accordance with the recommendations of the Site Investigation report.

**Severn Trent Water (STW)** has no objections subject to conditions requiring drainage plans for the disposal of foul and surface water flows and requiring prior to occupation of the development completion of improvements to the local sewage works and associated ancillaries, which is expected by April 2020. Reference has been made to *Barratt Homes v Welsh Water UK Supreme Court Judgement (2009)*.

In response to comments of the applicant's agent on the issue of drainage conditions, the following further comments have been received:

- Similarly worded conditions have been applied in other areas within the Sewer Service Area over the last 7 years.
- The condition seeks to phase occupancy rather than commencement so it does not affect deliverability of the site, nor are STW trying to influence matters outside of the life of the planning permission.
- Some time is requested to avoid issues with creating or exacerbating sewer flooding and to avoid overloading the sewage treatment works resulting in environmental issues.
- Section 98 of the Water Industry Act 1991 does not cover an Undertaker upgrading existing sewers to accommodate new development, in fact it is believed that Counsel opinion suggested that it could potentially be used to ask a developer to fund improvements specific to their site if need be, although STW haven't followed that approach in the past, agreeing that they have a duty under Section 94.
- Section 106 of the Act details a developer's right to connect with a public sewer subject to 21 day notice period, it has been determined in the UK Supreme Court that this does not relate to the capacity of that receiving sewer or controlling flows into them. The only grounds to object to a S106 notice are if the mode of connection is unsatisfactory.
- Section 195 of the Act is the right of a developer to request the undertaker divert an asset to facilitate development at the cost of the developer. There is uncertainty how this is relevant to STW's request for a short potential delay in occupancy whilst essential improvements works are provided.

**Natural England** has no comments to make but draws the Council's attention to Natural England funded research and feasibility appraisal work in respect of the management and restoration of key wetland features within the Shropshire, Cheshire & Staffordshire Plain National Character Area (NCA). This work presented a 'Wetland Vision' for the area comprising reports on the Meres and Mosses in the NCA.

**Staffordshire Wildlife Trust (SWT)** made the following comments regarding the information as originally submitted:

- The site is mostly within the Meres and Mosses Ecosystem Action Plan (EAP) area and on the edge of the Wooded Quarter EAP area.
- The area around Chorlton Moss including the application site is mapped as an opportunity area for Meres and Mosses in terms of potential to restore and enhance wetland habitats.
- Chorlton Moss Local Wildlife Site (LWS) is directly impacted by the proposals with habitat to be lost to a balancing pond and gardens along the eastern edge appearing to utilise a narrow strip of the LWS. This would not enhance the moss as it is not part of the recommended restoration management listed in the restoration site dossier produced in 2008.
- Chorlton Moss was last checked in 2006 and the data on the site's flora, condition and boundary are therefore out-of-date and a full resurvey and assessment is required to provide an accurate baseline for decision making.
- Although the tree cover on the moss is thought to be causing it to dry out, anecdotal evidence from residents suggests that water levels have been rising over the last 20-30 years as surface water has appeared more in the surrounding fields and marshy vegetation has expanded. In order to determine the current extent of the LWS it should be assessed. The marshy grassland habitat on the site has potential to be of LWS quality.
- As one of only two raised bogs in Staffordshire, the moss is part of the wider network of Meres and Mosses, unique features of this area of the Midlands.
- A plan is submitted showing the Functioning Ecological Unit (FEU) for the moss.
- Objection is raised to any development within, or indirectly affecting the FEU, and a suitable buffer of complimentary habitat should be retained beyond the FEU boundary.
- Raised bogs are irreplaceable habitats, by virtue of the unique geological and hydrological conditions needed for their formation. Some diverse grasslands may also be irreplaceable if they are not able to be recreated in a human lifetime. The proposals would result in the loss or deterioration of part of the raised bog habitat although in poor management condition,

currently could be restored. As well as proposing a balancing pool within the bog habitat itself, the development would alter hydrology in the area and destroy adjacent marshy grassland which forms a buffer of complimentary habitat around the moss. Removing or changing semi-natural habitats around the core wetland area would reduce its ability to support the species it contains at present. The proposed habitat compensation within the development design falls far short of that required to replace the wet areas that would be lost and the need for and benefits of the development have not been shown to clearly outweigh this loss.

- The marshy grassland would qualify as Floodplain grazing marsh and the lowland raised bog within Chorlton Moss is a Habitat of Principal Importance (HPI). Such habitats should be protected, enhanced, expanded and/or replaced if the required gains are to be met nationally. The proposals would result in the loss of priority habitats and this is not adequately mitigated by landscaping proposals.
- The hedgerows and stream on the site all act as corridors for a range of wildlife and the wet grassland along with the moss itself is a 'stepping stone' site for wetland wildlife within a more intensively farmed landscape. The proposals do not preserve or strengthen ecological links.
- Given the type of buildings, the proximity of waterbodies and woodland and the many bat species recorded, the likelihood of bats roosting in the buildings is higher than reported and further inspections and surveys are required.
- Activity surveys recorded six bat species which is unusually high for a development site indicating that the habitat on and around the site is of good quality for bats. The development would impact on the favourability of the area for bats, changing the habitat and introducing more artificial light and disturbance.
- It is likely that common amphibians will be present in long grass on the site and so precautionary site clearance methods would be required as best practice.
- Due to the loss of habitat proposed, a breeding bird survey should be carried out.
- Any development within a floodplain is opposed unless impacts to the floodplain function are fully compensated and enhanced. This would not be the case on this site. Culverting and loss of sections of the small watercourse is also not acceptable.
- It appears that the water table in the area has been changing and the reasons for this should be investigated. Adequate information from the relevant agencies and bodies should be sought to understand the hydrological issues further.
- In summary, Staffordshire Wildlife Trust objects due to impacts to the Chorlton Moss Local Wildlife Site, irreplaceable habitats, priority habitats and species and a lack of up-to-date and accurate information on the Local Wildlife Site's condition and extent as well as a number of species potentially affected.

The following comments were received in response to the further comments of Ecology Solutions Ltd:

- It is misleading to state that Natural England does not object. Rather they make no comment as it is not normally their policy to comment on locally designated sites due to resources.
- Restoration of the moss is possible and has occurred on other similar sites. Whilst the likelihood of restoration is uncertain at present, the priority should be to ensure that any development does not prevent or obstruct this from happening in the future.
- It is possible for some restoration work to be secured through a planning condition or S106 agreement.
- It is true that the LWSs vary in quality and many actually meet SSSI criteria. A LWS of County value as this one is at present, is deemed to be of this value until it is reassessed. The interest and habitats within the site are described in the survey report and there may be parts of the site that are more or less sensitive to potential impacts. This is why re-assessment has been recommended, so that its accurate current status can be established.
- The aim should be to protect, enhance, extend and link LWSs and to seek mitigation if this is unavoidable. Impacts, especially direct impacts, to the moss are avoidable – the SUDs feature could be moved and housing areas reduced.
- Policy N3 of the Local Plan is relevant and the proposals do not comply with most aspects of this policy.
- If tree felling is approved as part of a planning application, the licencing procedure is overruled.
- It is not unusual for there to be conflicts between the needs of various aspects of land use including landscape, flood risk, archaeology etc. when considering restoration but if such a



project were to be planned, it would be expected that agreement on the approach would be discussed with all relevant bodies so that the issues involved could be solved or satisfactory compromises made.

- Ecology Solutions state that the purpose of the assessment is to identify potential ecological impacts, their magnitude/significance and then propose any mitigation or enhancement measures. However to properly assess potential impacts there must first be accurate and up-to-date information on the status and boundary of the site. Therefore the state and status of the LWS needs to be re-assessed, along with the predicted impacts, and appropriate mitigation proposals.
- It is not agreed that provision of a wetland feature represents an enhancement over the current situation. The proposals have not been designed with the restoration of the moss in mind and would lead to surface water run-off, the quality of which cannot be guaranteed, directly into the moss. SuDs features should be positioned outside of the moss to create new habitat on low-value land and allow filtering of water before it enters sensitive habitats.
- The proposed loss of surrounding habitat has also not been considered as an impact on the LWS.
- Policy N8 of the Local Plan is relevant. The proposals involve direct and indirect impacts on peatland with no indication that the need for the development clearly outweighs the need to safeguard the habitat and with no measures to minimise damage or provide habitat restoration and/or re-creation as compensation.
- The further information regarding bats is welcomed and the inspections appear thorough.
- The state of Chorlton Moss in terms of its hydrology is not known and so it is not possible to assess whether the development would have an impact, especially into the future. The proposals as they stand however would prevent the moss from being fully re-wetted and restored in future.
- A smaller area of development may be able to proceed without impacting the moss or its FEU and this should be considered as a potential satisfactory alternative.
- The viability of the scheme is not something that can be commented on without more detailed information but there are areas of land that could be developed at a smaller scale that would not impact the floodplain. Impacts to watercourses could be avoided with an alternative design and enhancement of these features within the site.
- Staffordshire Wildlife Trust maintains an objection to the proposal.

In relation to an Addendum Ecological Report received on 6<sup>th</sup> June SWT comments as follows:

- The updated botanical/habitat information is useful but no methodology has been referenced for the National Vegetation Classification (NVC) methods used which are rarely used for Local Wildlife Site (LWS) assessment. Species lists and a map should be provided for clarity. The field to the south of the site has not been assessed although it has potential to be of LWS quality.
- It is not possible at this stage to clearly confirm which areas of the site and surroundings are of LWS quality. So far it would appear that some of the land could be SBI (Site of Biological Importance) and some could be (BAS) Biodiversity Alert Site. On provision of additional information, further discussion will be needed with Staffordshire LWS grading committee. SWT would like to independently verify findings as well as to update survey information on Chorlton Moss itself but given the information available so far, it is considered that there are a number of areas within the proposal site and in the field to the south which would qualify as some kind of LWS.
- The updated information on Great Crested Newt and nesting birds coverage is welcomed.
- As the extent of areas worthy of designation and therefore the magnitude and severity of the impacts it is still not clear, it is not possible to advise in detail on the level of mitigation required. The main point to make however is the absence of any consideration of the first level in the 'mitigation hierarchy' – that of avoidance. There has been no attempt to avoid or reduce any losses or impacts by changing the scale and layout of the development.
- The area of acid grassland restoration proposed is not stated. It is estimated to be 0.6ha but this is too small to compensate for wet grassland loss and is not necessarily the full extent of areas that could be designated as LWS. Restoration areas for compensation need to be around twice the size of habitat loss as the habitat to be restored already has some value so

the amount of gain one can achieve per hectare is not as great as creating valuable habitat from nothing.

- No detailed baseline information or habitat survey/plan is provided on the habitats currently in the area proposed to be managed.
- The restoration and ongoing management would need to be secured for the life of the development, not just for 10 years, if it is intended to act as mitigation for habitats permanently lost.
- Regarding tree felling, it would be beneficial to avoid trees with bat potential but the habitat restoration would need to take precedence.
- Otherwise, restoration proposals for the acid grassland appear sound in terms of methods but would need more detailed agreement.
- In summary, there has been no attempt to avoid impacts to the moss or the FEU which would avoid the majority of impacts, assessment and mitigation requirements and SWT's objection is upheld.

**Whitmore Parish Council** objects on the following grounds:

- Baldwin's Gate has nearly doubled in size in under 20 years during which time there has been no increase in facilities or infrastructure resulting in a loss of amenity to the whole community
- Work is progressing on a Neighbourhood Development Plan and a Housing Needs Assessment defines an extremely low level of local need. This has been catered for by the Gateway Avenue development and there is absolutely no remaining projected need until at least 2034.
- Residents of Baldwin's Gate oppose the scheme.
- It is inappropriate as it is a greenfield site outside of the Village Envelope and contrary to policies.
- Facilities in the village are extremely limited and there are no significant job sources in the parish. The development is unsustainable.
- The access route is unacceptable for construction vehicles
- The proposal is opportunistic and parasitic. The harm in this case significantly outweighs the benefits.
- There are serious concerns as to the capacity of the existing sewerage plant to deal with the extra load that this would create. It is requested therefore that an outline plan for the modification/extension to the treatment plan is put forward.
- The site is basically a waterlogged bog which floods freely under any heavy rain.
- Adverse ecological impact on the site which is an irreplaceable ancient wetland habitat
- Concerns regarding the validity of the application
- The affordable units are not sufficiently pepper-potted throughout the site
- An application has been submitted to Staffs County Council for the right of way between Moss Lane and Meadow Way to be formally registered as a Public Right of Way
- If permission is granted, funding should be set aside to cover the upgrading of the surface of public right of way 7 as the route is already unsuitable for the current levels of use.

The revised site layout improves the level of pepper-potting by moving three of the eight units previously grouped together in the NE corner to a different part of the site creating four groups (3+3+5+5) instead of only three previously (3+5+8). However it is considered that the resulting 4 groups instead of 5 do not go far enough, especially since all four groups are located on the extreme northern edge of the site. The Parish Council therefore maintains its objection that the 16 affordable units should be split up into at least five groups spread widely throughout the site. Further, no adjustments have been made to the site plan in view of the restocking notice issued by the Forestry Commission. Assuming the notice is enforced, the development as currently planned is not feasible.

**Chapel and Hill Chorlton Parish Council** objects on the following grounds:

- A Housing Needs Assessment produced as part of the Neighbourhood Development Plan indicates that housing is well provided for in this area and for the next 15-20 years. There is little need for 3, 4 or 5 bedroom houses, the need is mainly bungalows, houses for older people and 1 or 2 bedroom houses.
- Highway safety adjacent to a primary school

- Local sewerage plant is at capacity
- The site is a peat bog and is a priority habitat in UK Biodiversity Action Plan

**Maer & Aston Parish Council** objects on the following grounds:

- The proposal is contrary to Policy SP1 of the Core Spatial Strategy.
- A Housing Needs Assessment produced as part of the Neighbourhood Development Plan indicates that housing is well provided for in this area and for some time to come. If any housing is to be provided, smaller bungalows would be more welcome in enabling the more elderly population to remain in the area.
- Environmental and ecological damage to the area
- The land is low lying bog and unsuitable for development
- Pressure on services

The **Waste Management Section**, the **Environment Agency**, and **United Utilities** were consulted upon the application, the date by which their comments were requested has passed without comments being received from them and they must be assumed to have no observations to make

### Representations

Approximately 279 letters of objection have been received. A summary of the objections made is as follows:

- Contrary to the NPPF, the developing Neighbourhood Development Plan, the developing Joint Local Plan, the Core Spatial Strategy, Whitmore Village Design Statement & Whitmore Parish Plan and the Borough's strategy for rural development.
- The dwellings are not needed. A Housing Needs Assessment report for the Neighbourhood Area concludes that an appropriate range of new housing during the plan period 2013-2033 is between 50 and 100 dwellings. Completed and outstanding permissions since 1 January 2013 count towards fulfilment of the housing need and to date 144 dwellings in the Neighbourhood Area have been permitted since that date.
- Not sustainable as the local infrastructure is incapable of meeting the needs of the further dwellings proposed in addition to those currently under construction at the Gateway Avenue site. There are limited GP resources, the primary school is oversubscribed and secondary school children need to travel outside of Baldwin's Gate, and shopping facilities are limited so travel is inevitable.
- Public transport is limited especially for those who wish to use buses for work. At peak times the buses are full when they arrive at Baldwin's Gate and the village has no access to a bus service after 6pm.
- There are very limited employment opportunities in Baldwin's Gate and residents would need to commute, most likely by car, to their places of work due to limited bus service.
- Meadow Way, due to its restricted width, is not satisfactory for development and construction traffic which will involve the large scale removal of peat deposits.
- Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised.
- The Meadow Way junction with the A53 has poor visibility, has a difficult left turn of the A53 and is exacerbated by traffic to and from the filling station. It is not a good access for additional traffic.
- The proposal will add to the traffic and safety problems in Baldwin's Gate. The accident record on the A53 is severe and a recent fatal accident to the west of the Meadow Way junction has been omitted from the application.
- A number of manoeuvres were carried out by a Class 2 Large Goods Vehicle turning left into Meadow Way from the direction of Newcastle and secondly turning right out of Meadow Way and the manoeuvres were recorded by residents. When turning right out of Meadow Way the vehicle could not do so without striking the nearside kerb and it took at least 20 yards before it was totally on the correct side of the road. When it turned left into Meadow Way it had to be positioned totally on the offside of the A53 facing oncoming traffic for at least 20 yards before turning. This brought all the traffic travelling towards Newcastle to a standstill. The vehicle was unable to complete the turn into Meadow Way in one movement and it came to rest with

the front overhanging the pavement in Meadow Way and the rear protruding onto the A53 and then it had to reverse a short distance onto the A53 to level the vehicle and complete the turn.

- In the event that Meadow Way is deemed unsuitable for construction traffic, it has been suggested that Fairgreen Road could be an alternative. Limited investigations have demonstrated that it will also present significant challenges and dangers.
- The Highway Authority states that a banksman could control construction traffic but they are employed on building sites and other private developments and there is nothing to indicate that such a person could lawfully control traffic on a designated highway.
- It is not just a 10 minute period in the morning when there is a problem with traffic parked in Tollgate Avenue. The problem lasts for at least 30 minutes after which there are always a number of vehicles parked due to people visiting the doctor's surgery.
- There is no public parking provision within the development.
- The development would cause depletion of agricultural land and would severely impact on wildlife and its natural habitat. Degradation of Chorlton Moss would be inevitable and felling of mature trees on a significant scale is also required. The applicant's ecology report and later addendum lack credibility.
- The disturbance and removal of peat from the site will lead to the release of large amounts of CO<sup>2</sup>.
- The Ecology Report states that the landowner has no intention of allowing the large scale removal of trees on his land and that the woodland was purchased to be managed as woodland for the recreational use of family and friends. The landowner of the woodland and the south section of the site are the same so allowing regeneration would be in direct conflict with their intention to sell the land to the property developers.
- A £10 million grant scheme to restore England's iconic peatlands was launched recently by the Government. DEFRA states that the National Planning Policy Framework includes protections for peatland sites whereby permission should not be granted for peat extraction from new or extended sites. It also includes a core planning principle that planning decisions should contribute to conserving and enhancing the natural environment and reducing pollution.
- The submitted Chorlton Moss Management Plan proposes to restore and maintain a small area of acid grassland but this must be viewed in the context of the loss to urban development of 4.2ha of land that currently functions as a catchment for the bog and the Local Wildlife Site (LWS). Further this development would involve the destruction and removal of two areas of the functioning ecological unit of the bog that extend beyond the boundary of the LWS. On balance, it is clear that the net loss would be so significant and in no way can the proposed management plan be viewed as an adequate compensation for very significant loss and damage to the habitat.
- The removal of a naturally occurring area of rainwater attenuation that significantly contributes to reducing downstream flooding on the wider river and streams network.
- The surface water drainage strategy will mean a massive overloading of an existing level drainage ditch and the additional discharge of millions of litres of rainwater into the already overloaded river and streams network.
- The sewage pumping station and sewage treatment works are already overloaded and more properties would add to the problem which could affect existing properties. Severn Trent Water has recommended a condition to delay occupation until after the necessary upgrades to the system and refer to a Supreme Court Judgement. If development is approved the Local Planning Authority has a responsibility to impose such a condition.
- The site is poorly drained and flooding has occurred in the past in Meadow Way and should not be added to.
- The public open space would be unsafe and unusable by the public.
- There are no children's play areas or space for children to play or provisions for recreational activity or space.
- Open views of the country would be lost.
- The density of the proposed dwellings (26 dwellings per hectare) does not correlate with those surrounding the site (18/ha in Fairgreen Road and 15/ha in Lakeside). 3 storey houses are not in keeping as there are no such dwellings in Baldwin's Gate.
- Construction will cause excess nuisance to surrounding areas by way of dust, noise, pollution and quality of life. These points will be exacerbated for 7 years by the construction of HS2 with major traffic disruption also.

- The emergency access is across private land outside of the application site and as such its integrity by the present or future owners of the land cannot be guaranteed for use as an emergency access
- The existing public rights of way would become enclosed corridors with high fencing on both sides removing the open countryside aspect.
- Oppressive outlook to some properties and impact on privacy.
- There is no mention of Section 106 contributions or benefits to the local community.
- Two 19<sup>th</sup> century brick-built historic farmstead buildings, as defined in the Staffordshire Historic Environment Record, are proposed to be demolished and should be preserved.
- There are no details of street lighting or exterior residential lighting.
- Questions are raised regarding the validity of the application due to the absence of several required documents.

**Sir William Cash M.P.** objects to the proposal for the following reasons:-

- Contrary to the NPPF, the developing Neighbourhood Development Plan (NDP) for Whitmore, Maer & Aston and Chapel & Hill Chorlton, the developing Joint Local Plan, the Core Spatial Strategy, Whitmore Village Design Statement & Whitmore Parish Plan and the Borough's strategy for rural development. Baldwin's Gate is not a key rural service centre.
- Not sustainable and the local infrastructure is incapable of meeting the needs of a further 99 dwellings in addition to the 109 currently under construction at the Gateway site. There are limited GP resources, the primary school is oversubscribed and secondary school children need to travel outside of Baldwin's Gate, and shopping facilities are limited so travel is inevitable.
- Meadow Way, due to its restricted width, is not satisfactory for development and construction traffic which will involve the large scale removal of peat deposits.
- Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised.
- Meadow Way junction with the A53 has poor visibility, has a difficult left turn of the A53 and is exacerbated by traffic to and from the filling station. It is not a good access for additional traffic.
- The proposal will add to the traffic and safety problems in Baldwin's Gate. The accident record on the A53 is severe and a recent fatal accident to the west of Meadow Way has been omitted from the application.
- The development would cause depletion of agricultural land and would severely impact on wildlife and its natural habitat. Degradation of Chorlton Moss would be inevitable and felling of mature trees on a significant scale is also required.
- Open views of the country would be lost.
- The sewage pumping station and sewage treatment works are already overloaded and more properties would add to the problem which could affect existing properties. Flooding has occurred in the past in Meadow Way and should not be added to.
- Public transport is limited especially for those who wish to use buses for work. At peak times the buses are full when they arrive at Baldwin's Gate and the village has no access to a bus service after 6pm.
- There are very limited employment opportunities in Baldwin's Gate and residents would need to commute, most likely by car, to their places of work due to limited bus service.
- The density of the proposed dwellings (26 dwellings per hectare) does not correlate with those surrounding the site (18/ha in Fairgreen Road and 15/ha in Lakeside). 3 storey houses are not in keeping as there are no such dwellings in Baldwin's Gate.
- Construction will cause excess nuisance to surrounding areas by way of dust, noise, pollution and quality of life. These points will be exacerbated for 7 years by the construction of HS2 with major traffic disruption also.

**Baldwin's Gate Action Group #2** objects on the following grounds:

- Unsustainable location due to the limited bus service and local employment, the damage to Chorlton Moss, impact on the primary school and GP surgery and the closing off of the public right of way.

- No need for housing due to an excessive over-supply in the rural area as evidenced in the Housing Needs Assessment report for the Neighbourhood Area of Chapel and Hill Chorlton, Maer and Aston and Whitmore Parishes
- Landscape impact due to impact on outward views into the surrounding landscape, impact on the character and quality of the wetland landscape of the area and Chorlton Moss Local Wildlife Site (LWS)
- The proposed density does not correlate with those of the surrounding area
- Affordable housing ghettoised by being concentrated in the north-eastern part of the site
- There are already flooding issues in the area and should not be added to
- Inadequacy of the current pumping station and sewage facilities
- Meadow Way, due to its width, is not satisfactory for development and construction traffic and has a history of poor sub-structure resulting in frequent break up and movement
- Meadow Way and Tollgate Avenue are important accesses to the school and should not be compromised. Restricting of parking is not an acceptable solution for parents or patients.
- Impact of heavy construction traffic on the school due to air pollution and road safety hazards
- Poor visibility of the junction of Meadow Way with the A53
- Will add to the traffic and safety problems in the area
- Loss of valued green space
- Major impact on public right of way through loss of views and its enclosure with fences
- The path at the rear of Pasture Close is a local right of way

A further letter has been received from **Baldwins Gate Action Group #2** following the submission by the applicant of amended plans and further information in February 2017. A summary of the additional comments made is as follows:

- The applicant's ecology report and addendum lack credibility
- The removal of a large quantity of peat would result in the release of large amounts of carbon dioxide, loss of natural carbon sequestration and the loss of flood mitigation currently provided by retention in the peat of water
- Unlicensed tree felling was carried out in the LWS in December 2016
- The applicant has failed to implement any of the changes recommended by MADE design review
- Only 16% on-site affordable housing is proposed and this is contrary to the Government declarations that it will increase the amount of affordable housing in new developments
- The affordable units remain insufficiently spread across the development
- No details of street lighting are provided
- If the Planning Committee is minded to permit the development it has a responsibility to condition occupation of the development on the completion of the necessary upgrade works as requested by Severn Trent
- Video recordings submitted to the Planning Department clearly demonstrate the hazards posed by construction vehicles
- No consideration is given in the revised Transport Assessment to increased traffic flows resulting from recent planning approvals in Loggerheads

A subsequent letter has been received from **Baldwins Gate Action Group #2** following the submission by the applicant of amended plans and further information in April 2017. A summary of the additional comments made is as follows:

- The four groups of affordable units do not go far enough in 'pepper-potting'. There should be five groups and they should be spread widely rather than all being on the northern edge of the site.
- Many of the 'facts' stated in the response of the Highway Authority are rejected

#### Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Planning Statement

- Flood Risk Assessment and Drainage Strategy
- Tree Survey Report
- Landscape and Visual Impact Assessment
- Arboricultural Method Statement
- Statement of Community Involvement
- Ecological Assessment
- Addendum Ecology Report
- Transport Assessment
- Travel Plan
- Agricultural Land Classification
- Site Investigation Report
- Design Review Report
- Noise Report
- Archaeological Desk Based Assessment

All of these documents are available for inspection at the Guildhall and as associated documents to the application in the Planning Section of the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/01101/FUL>

Background papers

Planning files referred to  
Planning Documents referred to

Date report prepared

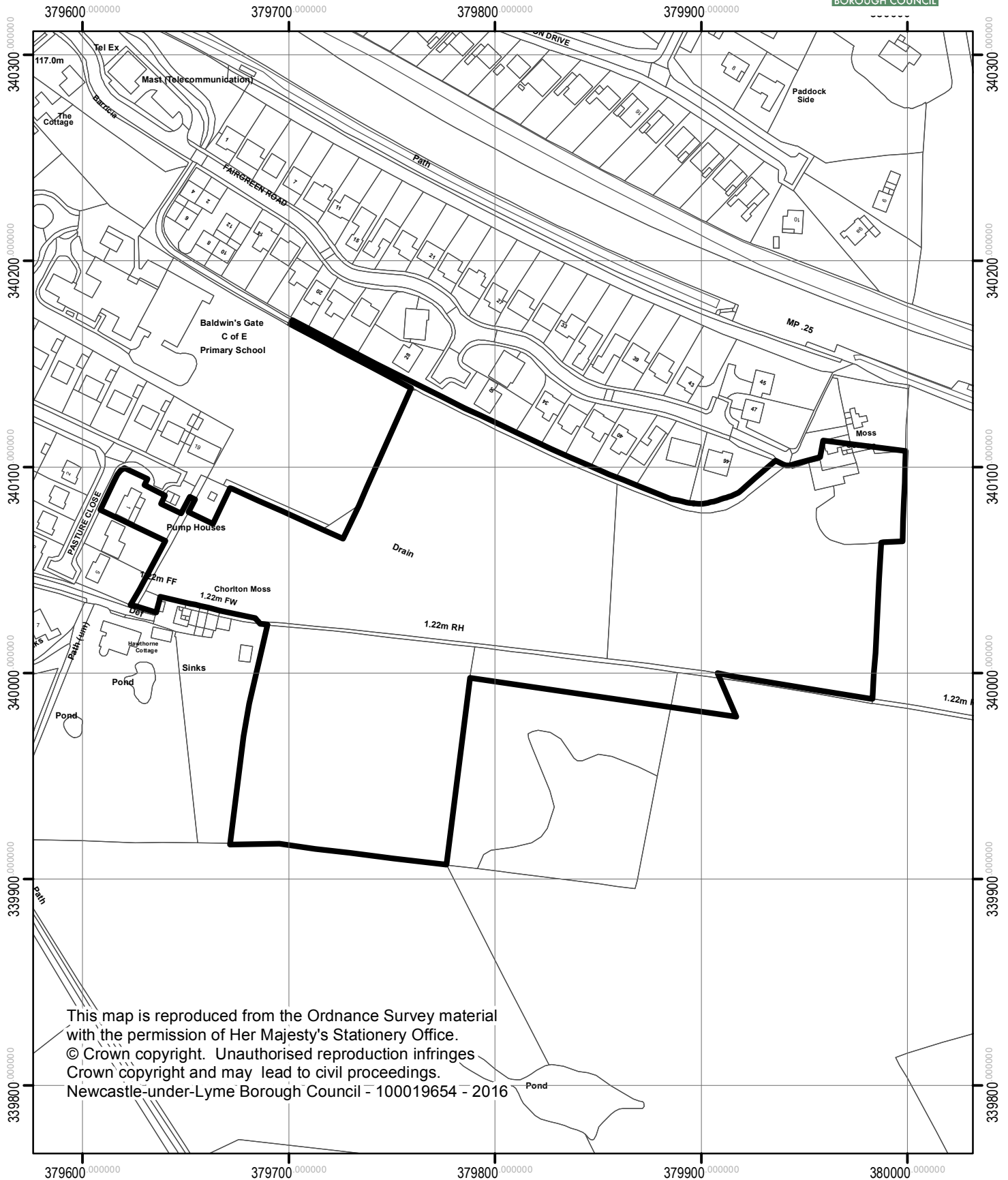
6<sup>th</sup> July 2017

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# Land off Meadow Way, Baldwins Gate

16/01101/FUL



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# Agenda Item 6

**LAND AROUND WILMOT DRIVE ESTATE, LOWER MILEHOUSE LANE  
KIER LIVING LTD**

**17/00281/FUL**

The application is for full planning permission for the erection of 276 dwellings, public open space and associated infrastructure works.

The application site, of approximately 8.73 hectares in extent, is in the Newcastle Urban Central Neighbourhood as indicated on the Local Development Framework Proposals Map.

**The 13 week period for the determination of this application expired on the 3<sup>rd</sup> July 2017.**

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## **RECOMMENDATION**

**(A) Subject to the applicant entering into a Section 106 obligation by 25<sup>th</sup> August 2017 to secure the following:**

- i. A commuted off-site affordable housing contribution of £92,957 (index linked) to be paid in three equal payments which is to be ring-fenced for five years for Aspire Housing Ltd**
- ii. A financial contribution of £60,000 (index linked) for the provision/maintenance of a Multi-Use Games Area (MUGA)**
- iii. A travel plan monitoring fee of £6,430**
- iv. Management agreement for the long-term maintenance of the public open space on the site**
- v. The review of the financial assessment of the scheme, if there is no substantial commencement (which will be defined in the obligation) within a period, yet to be advised, of the grant of planning permission, and additional contributions then being made, up to a policy compliant level, if the scheme is evaluated at that time to be able to support such a contribution.**

**Permit subject to conditions concerning the following matters:**

- 1. Standard time limit**
- 2. Approved plans**
- 3. The reporting of unexpected contamination**
- 4. Controls over the importation of soil/material**
- 5. Submission and implementation of a remediation scheme**
- 6. Construction and Environmental Management Plan (addressing environmental and highway safety)**
- 7. Controls over piling**
- 8. Internal and external noise levels**
- 9. Landscaping scheme to include additional trees, the number of each species of tree, and provision of additional larger growing trees, to mitigate the loss of trees arising from the development.**
- 10. Providing fencing and a gate to the access to the substation.**
- 11. Provision of suitable boundary treatments where gardens back onto the cycle/footpath**
- 12. Off-site improvements to the signalised junction of Lower Milehouse Lane and the Morrisons store.**
- 13. Surfacing of driveways prior to occupation.**
- 14. Travel Plan**
- 15. Prior approval of the rear boundary treatment to plots 163-164**
- 16. Prior approval of a gate to the substation on Breedon Close**
- 17. Prior approval of the precise facing materials**
- 18. Any additional conditions considered appropriate by your Officer to deal with matters of tree protection, surface water drainage and noise mitigation**

**B) Should the matters referred to in (i), (ii), (iii), (iv), and (v) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure an appropriate level of affordable housing, the provision and management of public open space, and measures to ensure that the development achieves sustainable development outcomes, and without a review mechanism there would be no up to date justification for a development with no policy compliant affordable housing provision, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

## **Reason for Recommendation**

This site is in a highly sustainable location and the principle of residential redevelopment is considered to be acceptable. The development is not fully compliant with policy as set out in the Knutton and Cross Heath Supplementary Planning document; will not provide a policy compliant

amount of affordable housing off site (as such a requirement would render the development unviable) and the recommendation that the off-site commuted sum is ring-fenced for a limited period for Aspire Housings. It will result in the loss of some trees. However it is not considered that such adverse impacts of the development significantly and demonstrably outweigh the benefits identified below. Accordingly permission should be granted provided the affordable housing commuted sum, public open space contribution and management agreement, travel plan monitoring fee, and reappraisal mechanism as indicated in the recommendation are secured.

### **Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework and no amendments were considered necessary.

### **Key Issues**

1.1 Full planning permission is sought for the demolition of existing buildings, the erection of 276 dwellings, public open space and associated infrastructure works.

1.2 The application site, of approximately 8.73 hectares in extent, is land that has been cleared of housing approximately 10 years ago and is located off Wilmot Drive.

1.3 The Lead Local Flood Authority has requested additional and updated information which, it is understood, has been provided by the applicant and on the basis of the informal comments of the LLFA to date it is not considered that flood risk is a key issue for consideration. The main issues for consideration in the determination of this application are therefore:-

- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Is the proposed housing mix appropriate for this location, is affordable housing provision required, and if so how should it be delivered?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Does the proposed development have an acceptable relationship with existing properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the development?
- Will appropriate open space provision be made?
- Would the proposed development have any material adverse impact upon highway safety?
- What planning obligations are considered necessary and lawful?
- Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

### **2. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?**

2.1 Core Spatial Strategy (CSS) Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

2.2 CSS Policy ASP5 sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and an indicative target of at least 3,200 dwellings within the Newcastle Urban Central Neighbourhood where the site is located.

2.3 Furthermore, NLP Policy H1 only supports housing in limited circumstances - principally within the urban area of Newcastle or Kidsgrove or one of the village envelopes.

2.4 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. At paragraph 14, the Framework also states that, unless material considerations indicate otherwise, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole.

2.5 The Council is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore is set out in paragraph 14 of the NPPF which sets out that there is a presumption in favour of sustainable development, and for decision taking this means, *unless material considerations indicate otherwise granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.*

2.6 The examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

2.7 In terms of sustainability, the site is located close to the Knutton village with the facilities and services it has to offer. In addition the site is relatively close to Newcastle Town Centre and there is a good bus service from close to the site to Newcastle. It is considered that this site represents a sustainable location therefore. As such the starting point is a presumption in favour of the development unless any adverse impact of granting planning permission would significantly and demonstrably outweigh the benefits when assess against the policies in the NPPF taken as a whole.

### 3. Is the proposed housing mix appropriate for this location, is affordable housing provision required, and if so how should it be delivered?

3.1 The site formerly contained inter-war social housing which, despite benefiting from a number of regeneration initiatives in the past, remained stigmatised and unpopular. The consequence of this was a large number of the houses on the estate were demolished, as part of the Renew Pathfinder Programme, to pave the way for a comprehensive redevelopment scheme.

3.2 The Knutton and Cross Heath Supplementary Planning Document (KCH SPD) identifies the site as a key development site with a unique opportunity for remodelling to create a new family environment with a mix of residential property types and tenures to avoid the recreation of the social issues associated with the area in the past. The KCH SPD indicates that the buildings should largely be domestic in scale with the majority of properties consisting of 3-4 bedroom family houses, but an element of 2 bedroom bungalows and 1-2 bedroom apartments should also be provided.

3.3 The proposed development consists of approximately 73% of 3 and 4 bedroom family homes. The remaining properties within the proposal are 2 bedroom two storey dwellings. As such there are no 2 bedroom bungalows or apartments within the development. Nonetheless it is considered that the mix of house types proposed is acceptable in this location bearing in mind that bungalows have been provided on the housing development opposite this site. The lack of apartments as proposed is not considered to be harmful or unacceptable in this case.

3.4 CSS Policy CSP6 states that residential development within the urban area, on sites of 15 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

3.5 This application proposes 276 dwellings and at 25% provision for affordable housing, 69 affordable dwellings would be required. The KCH SPD, however, indicated that developers should include an element of affordable housing within proposals to develop the site but, given the over

dominance of social and rented housing in the area, 10% should be provided (rather than the affordable policy requirement of 25%) as aspirational housing in the form of shared ownership schemes.

3.5 The applicant, supported by their partner Aspire Housing, does not wish to provide any affordable housing within the development indicating that affordable housing need would be met through a financial contribution towards off-site provision. Whilst not in accordance with the KCH SPD, in recognition of the level of affordable housing in the Knutton and Cross Heath Area it is considered that the proposal would be acceptable without any affordable housing provision on site but with affordable housing being provided elsewhere within the Borough through a commuted sum.

3.6 Whilst the Affordable Housing SPD does not advocate such an approach, it is considered that it would be appropriate to ring-fence the off-site affordable housing commuted sum for Aspire Housing so that they can construct additional affordable housing units elsewhere in recognition of the housing stock lost by them as a result of demolitions that took place. It is considered that five years is an appropriate period of time after which time, if Aspire have been unable to spend the money, the Council could then engage with another Registered Social Landlord.

#### 4. Would the proposed development have a significant adverse impact on the character and appearance of the area?

4.1 CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. It states that new development should protect important and longer distance views of historic landmarks and rural vistas and contribute positively to an area's identity and heritage (both natural and built) in terms of scale, density, layout, use of appropriate vernacular materials for buildings and surfaces and access. This policy is considered to be consistent with the NPPF.

4.2 The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) has been adopted by the Borough Council and it is considered that it is consistent with the NPPF and therefore, can be given weight. At R3 it indicates that new housing should relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

4.3 Prior to the submission of the application the proposal was taken to MADE, an independent Design Review Panel, who considered that a good start had been made in approaching the development of this site and some of the principles that the Panel were looking for were evident, but they had some suggestions as to how the development should be amended. The proposal has been amended and the layout differs from that upon which MADE commented.

4.4 The proposed layout is based around the two existing access points from Lower Milehouse Lane providing a main loop route through the development. This main route is to be aligned with swale verges forming part of the sustainable drainage system. A series of interconnected streets are proposed from the main route around the perimeter of the site and within the centre of the development. Very few dwellings are located on cul-de-sacs (30 in total) within the proposed layout.

4.5 The developer has identified three character areas within the site in the proposed layout.

4.6 The Perimeter Zone runs along the northern boundary which includes trees and hedges that separate the site from the industrial area of Lymedale Cross. The houses within this zone are primarily detached and semi-detached properties.

4.7 The Green Connection Zone runs along the open space on the western boundary which forms part of the Lymedale Industrial Estate structural landscaping. This zone is connected to the cycle-path/footpath that runs along the western boundary at two points towards the northern end of the site. The houses within this zone are primarily detached properties.

4.8 The Village Character Zone is in the heart of the development and connects to the local amenities and existing bus routes along Lower Milehouse Lane. This zone is shown to be more densely developed consisting of primarily semi-detached and terraced properties.

4.9 Overall the density is approximately 32 dwellings per hectare which is compliant with the development density for this site set out in KCH SPD which indicates that the appropriate development density for this site is 30-40 dwellings per hectare.

4.10 A consistent design has been adopted across the development. The proposed dwellings are two storeys in scale of brick and tile construction with some use of render. The design does not replicate the contemporary approach adopted within the residential development opposite (the Collins and Aikman site) but through the use of larger window sizes and dark grey finishes to windows the design links to that development whilst also referencing the more traditional design of the remaining dwellings of the Wilmot Drive estate.

4.11 The design and appearance of the dwellings as proposed is therefore considered to be appropriate for this location.

4.12 The development will result in the loss of some existing trees from within the site but trees along the northern boundary, which soften the appearance of the large industrial buildings adjoining the site, are shown to be retained. The Landscape Development Section (LDS) has raised concern that the Root Protection Areas for these groups of trees on the northern (and western boundaries) are much larger than has been identified and the proposed roads will require the loss of more trees than has been shown. In response to this additional information has been provided and the further comments of the LDS sought. There are, however, opportunities to mitigate any loss of trees with replacement tree planting and as such the impact of the loss of the trees would reduce over time as the replacement trees establish and grow.

5. Does the proposed development have an acceptable relationship with existing properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the development?

5.1 One of the core planning principles of the NPPF is to always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

5.2 With respect to the interrelationship of the proposed dwellings with the existing properties, it is considered that sufficient distance would be achieved to comply with the Council's Space Around Dwellings SPG.

5.3 The proposed dwellings would generally provide amenity areas which comply with the lengths/areas recommended in the SPG. Although there are a limited number of dwellings that have a garden length or area marginally less than the recommended figures, the level of private amenity space would be sufficient for the family dwellings proposed.

5.4 The site is located close to Lymedale Cross and Lymedale Industrial Estate where there are businesses that operate on a 24 hour basis and in light of this the Environmental Health Division (EHD) have requested an assessment of the noise impact of such operations. As yet EHD has not confirmed that they have been provided with a suitable assessment and that their objection, reported below, has been withdrawn. Notwithstanding this, noise mitigation measures, including the construction of an acoustic bund/fence along the northern boundary, were secured as a requirement of planning permissions granted for such employment development and have been provided. Such mitigation measures were designed to achieve acceptable noise levels and living conditions for the occupiers of the Wilmot Drive estate as it then existed and it is therefore anticipated that this issue can be addressed through suitable design measures secured by condition.

5.5 Overall, the development is considered acceptable having regard to residential amenity.

6. Will appropriate open space provision be made?



6.1 NLP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured.

6.2 An area of public open space is proposed along the northern and western boundaries of the site providing a green buffer on the outer edges of the development. In addition an amenity/play area is proposed in the heart of the development in a location where a group of mature trees are located, four of which are currently shown to be retained.

6.3 The Landscape Development Section (LDS) has raised concerns about the proposed play area due to it not being designed to the current standards that the Council apply as set out within the recently adopted Open Space Strategy (which are the 'Fields in Trust' standards). The play area as designed is substandard in respect of the depth of the buffer zone between the activity zone and the habitable façade of nearby dwellings as only 10m rather than 20m is provided given that the play provision is spread across the area around the trees to be retained. In addition play provision doesn't include 5 different types of play 'experience'.

6.4 To address the shortfall the developer has suggested that area where the play experiences are to be located is reduced and sited more centrally within the amenity space. This would achieve a buffer zone of the required depth and still provide a suitably sized area where 'equipment' is provided. In addition, in discussion with the LDS, it is considered that a play area could be provided without further loss of trees (or loss of dwellings). In this regard the proposal is acceptable.

6.5 The LDS have also requested that in addition to the play area to be provided on site it will also be necessary to secure a contribution for the capital development/improvement of off-site green space which is a Multi-Use Games Area. In principle, given the scale of the development, this is considered to be a reasonable request to ensure that the open space needs of the occupiers of the development are met.

6.6 In light of the above it is not considered that an objection could be raised to proposal on the basis of inadequate open space provision provided that an appropriately designed play area is secured through a condition of any planning permission granted.

## 7. Would the proposed development have any material adverse impact upon highway safety?

7.1 The application is supported by a detailed Transport Assessment (TA) considers the site against current guidance and policies. It assesses the proposal that the development is to be access via the two Wilmot Drive junctions and the capacity of additional junctions on the wider highway network to accommodate the traffic generated by the proposed development. The TA concludes that the development is acceptable and will not have any adverse impact on the surrounding network from and capacity and safety perspective. The Highway Authority is generally in agreement with the conclusions of the TA and in accordance with national policy subject to improvements to the signalised junction of Lower Milehouse Lane with the Morrison's access road to improve capacity they have no objections.

7.2 Policy T16 states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on street parking or traffic problem. Maximum parking standards are provided, within table 3.2 of Appendix 3, which sets the level of parking for 2 spaces for 2 or 3 bedroom dwellings and 3 spaces for dwellings with 4 or more bedrooms. The maximum standards are achieved within this development as proposed.

7.3 Overall the development is considered to be acceptable and would not result in any unacceptable highway safety concerns.

## 8. What planning obligations are considered necessary and lawful?

8.1 Section 122 of the Community Infrastructure Levy Regulations states that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and

- Fairly and reasonably related in scale and kind to the development

8.2 The applicant has confirmed, subject to consideration of the viability of the development their willingness to agree to the provision of 25% affordable housing off-site through a commuted sum. In addition, the Highway Authority has requested a travel plan monitoring fee of £6,430, the Landscape Development Section (LDS) has requested a contribution of £60,000 towards off-site public open space in the form of a Multi-Use Games Area (MUGA). These are all considered to meet the tests identified in paragraph 204 of the NPPF and are compliant with Section 122 of the Community Infrastructure Levy Regulations. In addition they are considered to be compliant with Regulation 123 of the Regulations as the contributions that are required are not in respect of a specific infrastructure project or a type of infrastructure for which five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010.

9. Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

9.1 As indicated above, to comply with policy, certain contributions would be required. A Viability Assessment has been submitted with the application which concludes that a policy compliant development would not be viable. The assessment concludes that the development could not fully support financial contributions or affordable housing provision required to satisfy policy.

9.2 It is acknowledged that in some circumstances an applicant may believe that what is being asked for by the Council will render a development unviable. The Developer Contributions SPD, adopted by the Borough Council in September 2007, has a section on the issue of “viability” and it starts with the point that any developer contributions required will need to comply with the tests set out in the then circular on planning obligations, which include those of fairness and being reasonably related in scale and kind to the proposed development, and reasonable in all other respects. Although the circular has since been superseded the principles continue to apply.

9.3 The Council's position is that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply. A list of the type of information which an applicant might consider useful to demonstrate why the Council's requirements are too onerous is provided and it is indicated that negotiations over the level of and nature of contributions will be assessed on a 'site by site' basis, having regard to a financial appraisal (which may be informed by independent advice) and that such negotiations will need to take account of the economics of the development and other national, regional, and local planning objectives that may affect the economic viability of the proposal.

9.4 The applicant in this case has submitted financial information to substantiate their claim that the Council's requirements as an LPA would render a policy compliant scheme unviable. The information submitted has been sent by your officers to the District Valuer (DVS) (an independent third party who has the skills required to assess financial information in connection with development proposals) for further advice. There have been discussions between the DVS and the applicants' agents with a range of supporting material being provided.

9.5 As indicated above the contributions and affordable housing being sought are ones which make the development policy compliant and 'sustainable'.

9.6 The DVS has calculated that the cost of providing the full 25% affordable housing off-site as £2,605,247 and has concluded that the development would be unviable if such a contribution were to be sought and policy compliant contributions were to be secured. The scheme could, however, support £996,000 of contributions in three equal payments at stages of the development, whilst maintaining viability .

9.7 Any consideration of the issue of the level of Section 106 contributions has to be in the context of the National Planning Policy Framework (NPPF) which postdates the Developer Contributions SPD. The NPPF indicates that “*to ensure viability, the costs of any requirement likely to be applied to the development, such as requirements for affordable housing, standards, infrastructure, contributions or other requirements, should, when taking into account of the normal cost of development and*

*mitigation, provide competitive returns to a willing landowner and willing developer to enable the development to be deliverable (para 173).*

9.8 The NPPF goes on to indicate that *"local authorities should take account of market conditions over time, and where appropriate, be sufficiently flexible to prevent planned development being stalled"* (para 205).

9.9 Every indication is that if the Council were to pursue the full amount of affordable housing and open space and travel plan monitoring contributions the development would not happen. Your Officer's view is that given the advice received from the DVS, there are sufficient circumstances here to justify accepting the development without the obligations that would be required to make the development policy compliant but it will be necessary to decide how the £996,000 should be spent.

9.10 In this case it is considered that in addition to £6,430 for the Travel Plan monitoring fee it is considered appropriate to secure the £60,000 towards the provision and maintenance of the MUGA so that the public open space needs arising from the development are met. This would leave £929,570 for the off-site affordable housing commuted sum which would equate to the provision of approximately 24 dwellings, as opposed to the 69 which 25% provision would represent.

10. Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

10.1 The proposal represents sustainable development which would make a significant contribution towards addressing the undersupply of housing in the Borough. There are also economic benefits associated with the construction of the dwellings and the expenditure of the new households. The other main benefit is the introduction of open market houses in an area where there has historically, and remains, a high number of social housing which will redress the imbalance in the tenure mix that there currently is and which was the reason for the demolitions that have taken place. Such benefits can be given considerable weight in the determination of the planning application.

10.2 Due to issues of viability it is not possible to secure a commuted sum to provide a policy requirement amount of affordable housing off site. Some provision will be secured, however, and on that basis it is considered that only moderate weight should be given to this adverse impact. The proposal will result in the loss of some trees, but such loss can be mitigated by tree planting within the development site and as such this harm should be attributed little weight. No bungalows or apartments are provided as indicated within the KCH SPD but this is not considered to be harmful.

10.3 Overall it is considered that the adverse impacts that have been identified would not significantly and demonstrably outweigh the benefits of the proposal. It is therefore considered that the proposal accords with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF. On this basis planning permission should be granted provided the required contributions are obtained and appropriate conditions are used, as recommended.

## APPENDIX

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

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

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

#### [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

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

National Planning Policy

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(March 2014\)](#)

[Community Infrastructure Levy Regulations \(2010\)](#) as amended and related statutory guidance

Supplementary Planning Guidance/Documents

[Knutton & Cross Heath Development Sites \(Phase 1\) SPD \(2008\)](#)

[Developer contributions SPD \(September 2007\)](#)

[Affordable Housing SPD \(2009\)](#)

[Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

[Waste Management and Recycling Planning Practice Guidance Note](#) approved in 2003 and last updated in February 2016

Relevant Planning History

None

Views of Consultees

The **Environmental Health Division** has no concerns with regard to land contamination. With regard to noise a further noise impact assessment has been requested concerning the activities from the adjoining twenty four hour warehouse and they currently object to the application. In the event that this objection is overcome, the following conditions are requested:

- The reporting of unexpected contamination
- Controls over the importation of soil/material
- Submission and implementation of a remediation scheme
- Construction and Environmental Management Plan
- Controls over piling
- Noise levels

The **Landscape Development Section** has expressed concerns that the Root Protection Areas for trees on the northern and western boundaries of the site, which provide an essential foil to the large industrial buildings adjoining and an important buffer to the cycleway, are larger than shown and that more trees will be lost. They request that measured RPA should be shown and existing and proposed levels provided. There are no objections in principle to the proposed landscaping however it is difficult to determine the number of each species of tree that is proposed and this information is requested. In addition sufficient larger growing species should be planted to mitigate the loss of existing trees and further tree planting should be provided on the western boundary to mitigate the loss of trees adjacent to cycleway. The proposed play area doesn't meet the Fields in Trust LEAP criteria as required in respect the required buffer zones for the adjacent dwellings and amount of play equipment. In addition to the LEAP, a contribution for capital development/improvement of off-site green space at a rate of £2,943 per dwelling is also required, however they have subsequently revised this to a request for £60,000 for the provision and future maintenance of a Multi-Use Games Area (MUGA).

The **Education Authority** advises that this development falls within the catchments of Knutton, St. Mary's C of E Academy and Newcastle Academy.

The development is scheduled to provide 276 dwellings. A development of this size could add 58 Primary School aged pupils, 41 High School aged pupils and 8 Sixth Form aged pupils.

All schools are projected to have sufficient space to accommodate the likely demand from pupils generated by the development.

The **Crime Prevention Design Advisor** welcomes the proposal for the redevelopment of the site for open market sale housing in line with the Local Planning Authority's desire to provide a better balance between owner occupied and social rental housing in the locality. A number of Designing Out Crime attributes are included within the Design and Access Statement and layout but there are a few locations that might lend themselves to anti-social behaviour and the following suggestions are made:-

- Providing fencing and a gate to the access to the substation.
- Avoiding areas unallocated at rear of properties
- Provision of suitable boundary treatments where gardens back onto the cycle/footpath

The **Lead Local Flood Authority** has requested additional information which the applicant is in the process of providing.

**Severn Trent Water** has no objections subject to conditions requiring drainage plans for the disposal of foul and surface water flows.

The **Highway Authority** has no objections subject to conditions relating to the following:

- Off-site improvements to the signalised junction of Lower Milehouse Lane and the Morrisons store.
- Surfacing of driveways prior to occupation.
- Construction Environmental Management Plan.
- Travel Plan

The **Environment Agency** recommends a condition requiring unexpected contamination to be addressed through a remediation strategy.

**National Grid** advised that it has apparatus in the vicinity of the site which may be affected and that they should be informed, as soon as possible, the decision the Authority is likely to make regarding this application so they can provide technical or other information that may be of assistance in the determination of the application.

The views of **Housing Strategy Section**, the **Waste Management Section** and the **Knutton and Cross Heath LAP** were consulted upon the application, any comments received will be reported but if no comments are provided it will be assumed that they have no observations to make given that the date by which their comments were requested has passed.

#### Representations

One letter of representation has been received indicating that it had been agreed prior to the submission of the application that it would be beneficial to provide a small access road to the rear of Wilmot Close.

#### Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Planning Statement
- Gas monitoring report
- Flood Risk Assessment
- Noise Impact Assessment
- Air Quality Assessment
- Tree Survey and Schedule
- Ecological Appraisal
- Desk Study and Ground Investigation
- Transport Assessment and Travel Plan
- Road Safety Audit
- Affordable Housing Statement
- Statement of Community Involvement

All of these documents are available for inspection at the Guildhall and as associated documents to the application in the Planning Section of the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00281/FUL>

#### Background papers

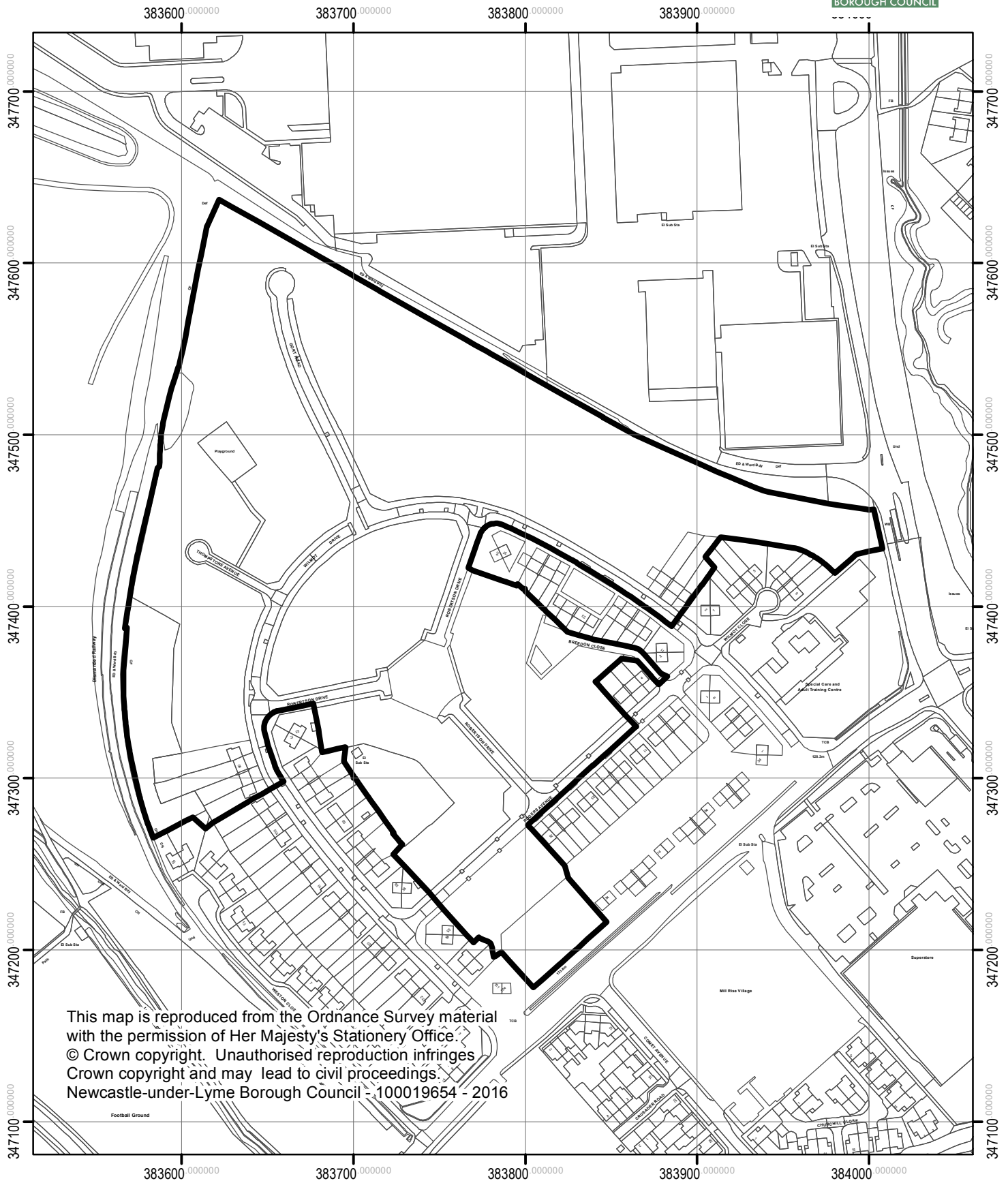
Planning files referred to  
Planning Documents referred to

#### Date report prepared

5<sup>th</sup> July 2017

# Land Around Wilmot Drive Estate Lower Milehouse Lane

17/00281/FUL



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**FORMER SAVOY CINEMA/METROPOLIS NIGHTCLUB, 72, HIGH STREET, NEWCASTLE**  
**MODULTEC INTERNATIONAL LTD** **17/00174/FUL**

The application was for full planning permission for the demolition of the former Savoy Cinema and the erection of a 13-storey student accommodation building comprising 227 units. The application was refused by the Planning Authority on the 9<sup>th</sup> May 2017 and an appeal against that decision has now been submitted to the Planning Inspectorate.

**RECOMMENDATIONS**

That the Committee confirms:

- 1) that it wishes officers to now write to the appellant to confirm that the obligations referred to in the recommendation that was provided to the Planning Committee on 25<sup>th</sup> April 2017 are required by the Local Planning Authority;
- 2) that in preparing the Council's Statement of Case, officers include reference to these above requirements; and
- 3) that should the appellant seek before the appeal is determined to enter into a Section 106 agreement with the Council containing such obligations, officers have the appropriate authority to enter into such an agreement.

**Reason for report**

The application was refused planning permission on the 9<sup>th</sup> May 2017. An appeal has been submitted to the Planning Inspectorate but it has not yet been accepted as a valid appeal and therefore the procedure and timetable that the appeal will follow has not yet been determined. This report is solely concerned with the issue of planning obligations.

**Background**

The Planning Authority refused planning permission for this application on the 9<sup>th</sup> May 2017 for the following reasons:

1. *The proposed development, by virtue of its scale, massing and design, would have an adverse impact on the character and appearance of the Newcastle Town Centre Conservation Area and the setting of Listed Buildings within the Conservation Area, namely the Guildhall and St. Giles' Church. The proposal would thereby be contrary to Policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, saved Policies B5, B9, B10 and B14 of the Newcastle-under-Lyme Local Plan 2011, Policies HE3 and HE4 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010), the Newcastle-under-Lyme Town Centre Supplementary Planning Document (2009), Policy Newcastle TC CA No. 2 of the Newcastle Town Centre Conservation Area Management Proposals, and the aims and objectives of the National Planning Policy Framework (2012).*
2. *Given the absence of parking proposed within the site, the significant additional on-street parking demand that is likely to be created by the development would lead to an exacerbation of congestion and related harm to highway safety on streets in the vicinity of the development contrary to the aims and objectives of the National Planning Policy Framework (2012) and the Ministerial Statement of March 2015.*

The recommendation before the Planning Committee was that planning permission be granted subject to the applicant entering into a Section 106 obligation to secure the following:

- A. Provision of a free bus pass to each student for travel to the Campus at Keele University, Staffordshire University, Stoke-on-Trent College or the Royal Stoke University Hospital

- B. A financial contribution of £2,200 towards travel plan monitoring
- C. A financial contribution of £8,000 towards the ongoing maintenance of the Real Time Passenger Information system for bus services
- D. A financial contribution of £11,600 towards improvements to the cycle route from Newcastle town centre to Keele University
- E. A financial contribution of £220,871 towards the enhancement of public open space
- F. A financial contribution of £47,000 towards public realm improvements in the vicinity

The report to the Committee on the application advised that obligations A-D listed above are considered necessary in the interests of achieving a sustainable development, obligation E is considered necessary to meet the open space needs of the development and F is considered appropriate and necessary to improve the appearance of the area, provide better residential amenity for the occupants of the development and in the interests of achieving a sustainable development. It is considered that all of the above obligations would meet the statutory tests and would be lawful.

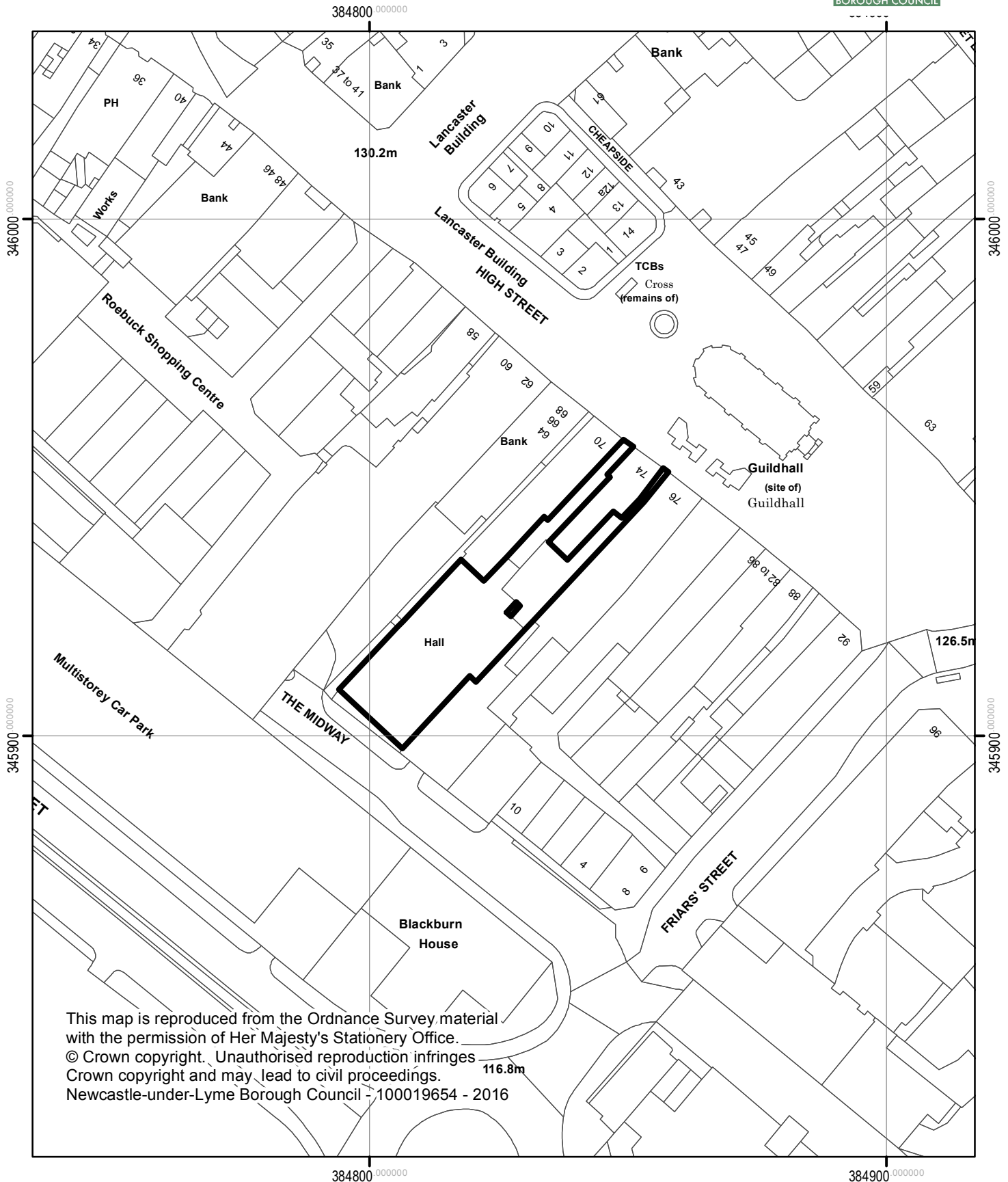
The decision notice of the Local Planning Authority, drawn up on the basis of the resolution of the Planning Committee of the 25<sup>th</sup> April, makes no express reference to these obligations, which at the time of the decision of the Committee were not “on the table”.

An appeal has now been lodged against the Council's decision and in the appeal documents submitted to the Planning Inspectorate, it is indicated that the appellant does not intend to submit a planning obligation with the appeal.

The decision of the Authority has been made with respect to 17/00174/FUL, the decision notice has been issued, and is now the subject of the appeal. There is no suggestion that the Council either can or should add to its grounds of refusal of the application. However, notwithstanding that the appellant may currently not wish to enter into a Section 106 obligation, your officers would submit that it is appropriate and timely to make the Local Planning Authority's position with respect to planning obligations absolutely clear.

# Former Savoy Cinema, Metropolis Nightclub, High Street, Newcastle

17/00174/FUL



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**LAND OF HIGHFIELDS COURT, CLAYTON ROAD**  
**DAVID MORREY (HUME UPRIGHT)**

**16/00943/FUL**

The application is for 3 new detached dwellings on site which is presently woodland. The entire site is approximately 0.8 hectares in size.

The application site lies within the Urban Neighbourhood Area of Newcastle as specified on the Local Development Framework Proposals Map. The woodland is subject to a Tree Preservation Order (no. 21)

The application has been called in to Committee by two Councillors due to public concerns about the development.

**The 8week period for the determination of this application expires on the 26 June 2017 but the applicant has agreed an extension of time to the statutory determination period to the 24<sup>h</sup> July 2017.**

**RECOMMENDATION**

**REFUSE for the following reasons:-**

**1. It has not been demonstrated that the proposed development can be constructed without harm to or the loss of visually significant trees and that satisfactory living conditions can be provided for the occupants of the development without the pruning or felling of trees which would be harmful to the undeveloped, unspoiled attractive wooded character of the site contrary to policy.**

**2. The site has been identified as having high ecological value and it has not been demonstrated, through appropriate survey and assessment of the impact and the mitigation measures necessary to minimise such impact, that such value will not be unacceptably eroded.**

**Reason for Recommendation**

The site is attractive local woodland and a haven for wildlife. Allowing development in this particular location would be harmful to the attractiveness of the wooded setting through the pruning or felling of trees as a result of the construction of the development or arising from future pressure due to the restricted light and unwanted algal growth and leaf fall arising from such trees. In addition it has not been demonstrated that the development will not adversely affect the current high ecological value of the site. All of these factors outweigh any benefits of allowing housing in this particular location.

**Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

The concerns to the development appear to be unresolvable and therefore the appropriate course of action is to refuse planning permission.

**Key Issues**

The site is located within the urban area of Clayton close to the Town Centre within walking distance of the public transport provision and the full range of services on offer. The site is presently undeveloped woodland.

The proposal involves the construction 3 large detached dwellings. The footprint of each of the dwellings proposed is approximately 18 metres by 14.5 metres. The height of the properties each range from around 8 metres to 10 metres in overall height taking into account

changes in levels within the site. A new internal access road extending from Highfield Court is proposed to serve the development.

Planning permission was refused for a single dwelling on the site in 2006 under application reference 05/01005/FUL on the grounds that:-

- 1. The site is greenfield land and contrary to the objective of maximising the use of previously developed more sustainable land elsewhere.*
- 2. Failure to demonstrate that adequate living conditions will be possible without extensive felling and lopping of trees.*
- 3. Failure to demonstrate that visually attractive trees will not be harmed or lost arising from the development inclusive of the new access road to the site.*

National and local policy has changed since the previous decision and consideration of the key issues of the proposed development as set out below is against current policy. Those key issues are:

1. Is the principle of residential development in this location acceptable?
2. Is the design of the proposal and the impact upon the character and appearance of the area acceptable?
3. Is the impact to surrounding trees acceptable?
4. Would there be any significant impact upon any nature conservation interests?
5. Would the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?
6. Is the impact on highway safety acceptable?
7. Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

1. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

Local planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

Saved Local Plan policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 1,000 dwellings within Newcastle Urban South and East (within which the site lies).

Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

The site does not meet the NPPF definition of previously developed land. The site is within the urban area in close proximity to Newcastle town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also in close proximity to schools, open space and employment opportunities. Therefore, it is considered that the site provides a highly sustainable location for additional residential development.

Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing within the Development Plan cannot be considered up-to-

date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47). Paragraph 14 details that at the heart of the Framework is a presumption in favour of sustainable development and that this means, unless material considerations indicate otherwise, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework at a whole, or specific policies indicate development should be restricted.

Local Planning Authorities (LPA), by reason of the National Planning Policy Framework (Framework), are required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements (in the Borough's case as set out within the Core Spatial Strategy) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council, is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Framework, because it does not have a full objective assessment of housing need and its 5 year housing land supply statement is only based on household projections.

On the basis of all of the above, it is considered that the principle of residential development in this sustainable location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

### 2. Is the design of the proposal, with particular regard to the impact upon the character and appearance of the area acceptable?

Core Strategy Policy CSP1 lists the broad criteria for the assessment of new development which includes amongst other things the need to promote the image and distinctive identity of Newcastle through the enhancement of strategic and local gateway locations and key transport corridors. It also requires a positive contribution to an area's identity and heritage through the use of appropriate vernacular materials. The Urban Design Supplementary Planning Document gives additional detailed design advice to supplement Policy CSP1.

The wooded area where the new dwellings are proposed provides an important green backdrop to urban housing area and is an attractive and distinctive feature in the local area. Immediately to the north is a cemetery. To the south are existing residential areas, immediately to the West is a public parkway which leads to the cemetery and to the East is Lyme Valley Parkway on the opposite side of Clayton Road.

The dwellings proposed comprise largely of brick facades with a small degree of timber cladding to add architectural interest. The dwellings are large properties and coupled with the internal access road proposed would drastically alter the character of the woodland from a natural setting by introducing buildings, domestic gardens and associated features. From wider vantage points, particularly from Clayton Road, there still would appear to be substantial tree coverage and no direct views of the new properties but the views within the site itself would be eroded from its natural state.

The impact of the development on the visually significant protected trees also has an implication on the character and appearance of the area as a further material factor.

### 3. Is the impact to surrounding trees acceptable?

Trees within the site boundary are protected by a Tree Preservation Order (TPO). The Landscape Development Section (LDS) initially commented that it had not been demonstrated that the development will not cause harm to trees. In response to those comments further tree information has now been provided and the further comments of the LDS have been sought.

The LDS, however, has also raised concerns that even if it was demonstrated that no harm to tree root systems or canopies would arise the development is likely to lead to long term

pressure for further tree removal due to the poor light conditions, unwanted algal growth and leaf fall arising from the trees on and adjoining the site and the density of their canopy.

The conclusion reached that it has not been demonstrated that proposed development would not result in loss or damage to visually significant trees due to the construction of the proposed development and the development would lead to pressure to prune or fell retained trees in the future which would be detrimental to the character and appearance of the area.

#### 4. Would there be any significant impact upon any nature conservation interests?

A preliminary ecological appraisal has been provided in support of the application which highlights the importance of the woodland, identifying it as having high ecological value in terms of the mature trees present and recommends an arboricultural survey to assess impacts to the trees.

The submitted survey indicates that the site provides potential for roosting bats and is attractive to bats as foraging habitat also. In light of that it identifies the need for further assessment to establish the extent that the developments impacts upon bats, a protected species, and to identify appropriate mitigation measures.

The survey indicates that there may be native bluebells present on the site and if that is the case other woodland ground floral species may also be present. The report recommends a detailed botanical survey to be undertaken at a time when woodland ground flora plants are growing and flowering (April-May) to assess the value of the woodland habitat and to set out recommendations for mitigation, if required.

In the absence of the additional surveys recommended in the submitted survey, and given the likely subsequent pressure for the felling and pruning of trees arising from the occupation of the proposed dwellings, it has not been demonstrated that the development can be carried out without unacceptably damaging important ecological habitats.

#### 5. Is the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development acceptable?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook. The proposal is in accordance with this guidance.

Environmental Health Division have advised that noise mitigation measures will need to be incorporated into the development to ensure suitable noise levels and to ensure future residents will not be adversely impacted upon by traffic noise from Clayton Road. The use of a planning condition requiring those details could overcome that particular concern.

Given the amount of mature trees in the immediate area it is likely that future occupants of the dwellings would have a low standard of amenity owing to reduced light levels, unwanted leaf fall and algal growth. The resulting living conditions are therefore considered to be unsatisfactory.

#### 6. Is the use of the access and parking provision proposed acceptable in highway safety terms?

The most up to date planning policy (contained within the Framework) indicates that development should only be prevented or refused on transport grounds where the impact of development is severe.

The Highway Authority has no objections to the vehicle access parking and turning arrangement applied for subject to conditions.

Overall it is considered, in line with the Highway Authority advice, taking into account the concerns expressed about the safety of the proposed access and subsequent traffic increase



on Clayton Lane by local residents that there is no significant detriment to highway safety arising from the proposal.

10. Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

As the Council is currently unable to demonstrate a five-year supply of housing land, the provisions of the NPPF are engaged and the presumption in favour of sustainable development therefore applies, as set out above.

There are several factors that do weigh in favour of the development. The proposal would make a contribution toward boosting housing land supply within the Borough in the context of an identified shortfall. But the amount of housing to be provided is modest and only modest weight can therefore be given to such a benefit. Some limited economic benefits would arise during construction and as a consequence of the occupation of the dwellings.

The site involved is attractive mature woodland where a wide range of flora and fauna area likely to flourish including protected species. Allowing residential development in this location is likely to harm existing trees and place considerable pressure to remove trees from a mature woodland setting which provides an attractive green context to the surrounding townscape and is also likely to harm local wildlife. Moreover the resultant living conditions for occupants of the dwellings are likely to be negatively impacted upon by reduced light levels, unwanted leaf fall and algal growth.

Accordingly it is concluded that the adverse impact of the development would significantly and demonstrably outweigh the benefits of the development and as such the application should be refused.

## APPENDIX

### Policies and Proposals in the Approved Development Plan relevant to this decision:-

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

Policy SP1	Spatial principles of Targeted Regeneration
Policy SP3	Spatial principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open Space/Sport/Recreation
Policy CSP10	Planning Obligations

#### [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy H1	Residential development: sustainable location and protection of the countryside
Policy T16	Development – General parking requirements
Policy T18	Development servicing requirements
Policy N3:	Development and Nature Conservation – Protection and Enhancement Measures
Policy N12	Development and the Protection of Trees
Policy N17	Landscape Character – General Considerations

### Other Material Considerations

#### [National Planning Policy Framework \(NPPF\) \(2012\)](#)

#### [Planning Practice Guidance \(March 2014\)](#)

#### Supplementary Planning Documents/Guidance

#### [Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

#### [Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

#### [Waste Management and Recycling Planning Practice Guidance Note](#) approved in 2003 and last updated in February 2016

#### Relevant Planning History

05/01005/FUL	Erection of dwelling	Refused	2006
94/00424/FUL	Erection of two detached dwellings	Refused	1994

#### Views of Consultees

The **Highway Authority** has no objections on highways grounds subject to conditions relating to the following:-

1. Approval of details of parking and turning areas, implementation prior to first occupation and retention for the life of the development.
2. Approval of details of a safety barrier scheme for the area adjacent to the intersection of the private driveway with the access driveway, implementation of prior to commencement of construction and retention for the life of the development.
3. Private driveway shall be built with a of a minimum width of 4.2m and gradient not exceeding 1 in 10 for first 10m rear of the access roadway, surfaced in a bound material with surface water drainage interceptors prior to first occupation.

The **Environmental Health Division** has no objections subject to:-

1. Construction and demolition hours being restricted to between the hours of 18.00 hours and 07.00 hours Monday to Friday, and not at any time on Sundays, Bank Holidays or after 13.00 hours on any Saturday.
2. Prior approval design measures, supported by an appropriate noise assessment, to achieve appropriate internal and external noise levels.

The **Landscape Development Section** makes the following comments:

- The mature trees on the site are covered by Tree Preservation Order number 21. They provide an important visual contribution to the Clayton Road corridor and the Three Parks public space and footpath link, and make a significant contribution to the treed slope on the western side of the Lyme Valley.
- Insufficient details have been submitted to demonstrate that the proposals will not cause harm to the trees.
- The information submitted with the application does not take into account all trees on and adjacent to the site, appears to require further removal of trees, proposes changes of level within RPAs and includes new surfacing that exceeds 20% of existing unsurfaced ground within RPAs.
- Permission for works to protected trees which was granted in 2016 (16/00320/TWA5) required replacement trees for those that were felled and these should be shown on the submitted plans.
- There are concerns that the density and proximity of trees and poor light conditions would be likely to lead to post development resentment of the trees by the occupants of the dwellings, particularly as this is an urban area. Concerns such as excessive shading, algal growth, fear of damage to persons and property during strong winds, leaves blocking gullies and the need for frequent leaf sweeping would be likely to lead to subsequent pressure for the felling or pruning of the trees.
- Strategic landscape proposals should be submitted showing how it is proposed for the woodland to be developed for residential use.

**Staffordshire Wildlife Trust** were consulted upon the application, any comments received will be reported but if no comments are provided it will be assumed that they have no observations to make given that the date by which their comments were requested has passed.

#### Representations

34 letters of representation have been received objecting to the proposal on the following grounds:-

- Established attractive mature woodland of local significance is inappropriate for housing and should be protected from development pressure.
- More appropriate locations for housing could be considered. In particular previously developed sites instead of greenfield land.
- The woodland is locally known for 'bluebells' which are protected flora and other protected and important fauna such as badgers, bats, great crested newts, a variety of birds and other animals.
- The ecological value of the site should be protected from development where housing would be inappropriate.
- The impact to wildlife is not evaluated in the application submission material and it is likely biodiversity would be harmed by the development.
- The proposed dwellings would suffer from excessive shading by trees and therefore reduced light, algal growth and fear of damage from strong winds.
- Clayton Road is narrow and a single lane road where an increase in vehicular traffic would be hazardous.
- The Highfield Court access via Clayton Road and crossing at Abbots way is already dangerous for pedestrians and road users given the road layout and speeding traffic.

- The houses overlook a cemetery where mourner's privacy is eroded and is insensitive to that particular neighbouring local use.
- Previous application attempts for housing on the land have failed and there is no reason for the Planning Authority to take a different view on the recent application.

#### **Applicant/agent's submission**

Application forms and indicative plans have been submitted along with a Design and Access Statement, Preliminary Ecological Appraisal and Tree Report. These documents are available for inspection at the Guildhall and searching under the application reference number 16/00943/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00943/FUL>

#### **Background Papers**

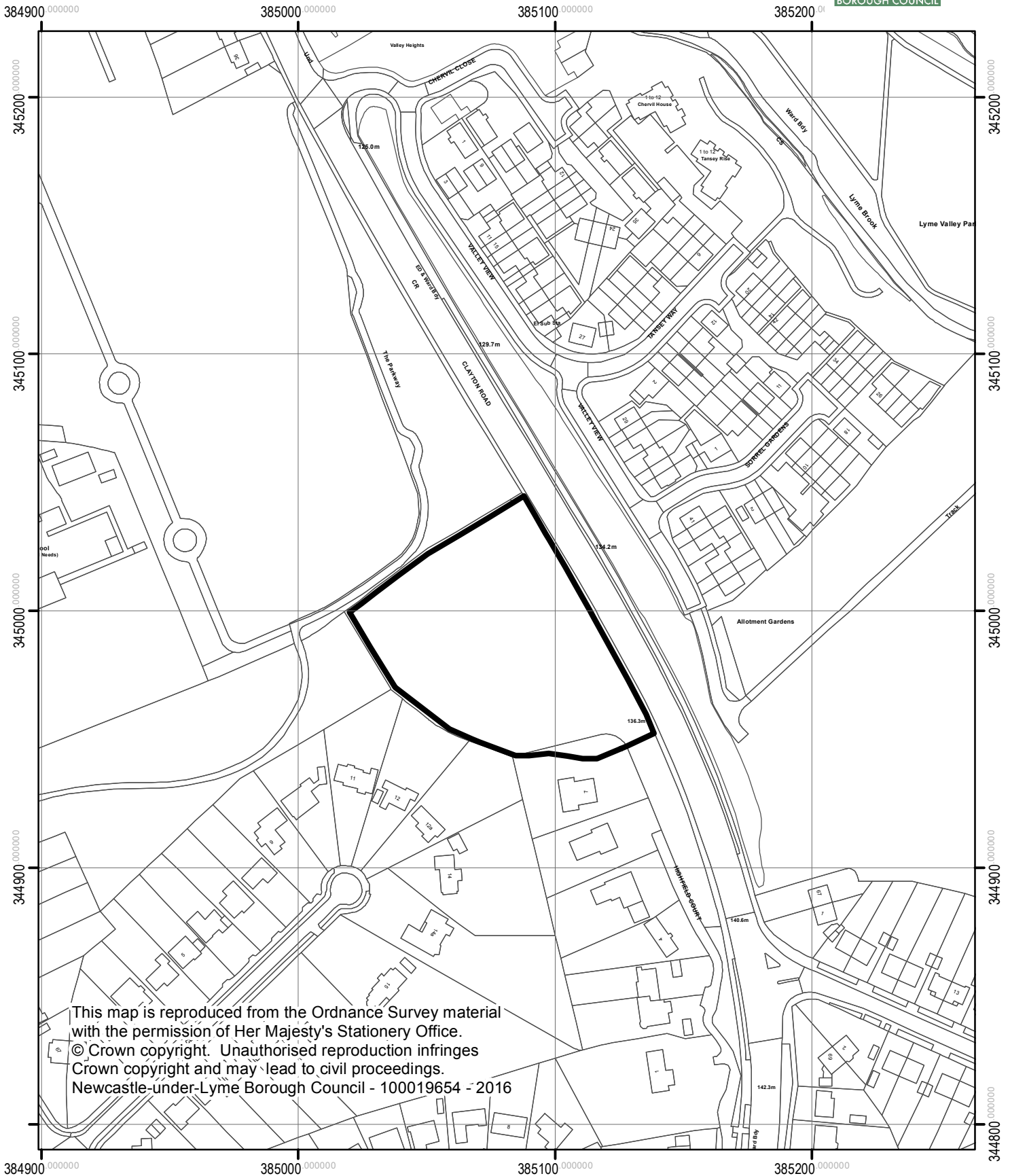
Planning File  
Planning Documents referred to

#### **Date Report Prepared**

5<sup>th</sup> July 2017.

# Land off Highfields Court, Clayton Road

16/00943/FUL



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Newcastle-under-Lyme Borough Council - 100019654 - 2016

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**LAND ADJACENT TO ST MICHAELS PRESBYTERY, LIVERPOOL ROAD, CROSS HEATH**  
**NEWCASTLE BOROUGH COUNCIL** **17/00489/DEEM3**

The application is for advertisement consent for the erection of a 48 sheet unilluminated poster hoarding 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m.

The application site is within the Newcastle Urban Neighbourhood as specified on the Local Development Framework Proposals Map. The site adjoins St Michaels Presbytery which is on the Register of Locally Important Buildings. The site lies adjacent to the east side of the A34 (Liverpool Road).

**The 8 week period for the determination of this application expires on the 1<sup>st</sup> June 2017.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Approved plans.**
- 2. Highway method statement to address installation and maintenance of the sign.**

**Reason for Recommendation**

There will be no material harm to the amenity of the area or to public safety and as such the proposal is therefore acceptable.

**Key Issues**

The application is for advertisement consent for the erection of a 48 sheet unilluminated advertisement hoarding 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m. The sign is to be located within a landscaped area adjoining the boundary fence to an electricity substation, near, but at right angles, to the boundary wall of St Michaels Presbytery.

**Amenity**

The NPPF at paragraph 67, states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment.

National Planning Practice Guidance (PPG) indicates that in assessing amenity, the local planning authority should consider the local characteristics of the neighbourhood. The example given is if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features. It goes on to say that this might mean that a large poster hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

The PPG therefore identifies the 'extremes' where hoardings are and aren't acceptable. In many cases poster hoardings are not proposed in locations where the decision is as clear cut as highlighted in the Government guidance. Generally, within the Borough and in other areas, the approach often adopted in the consideration of poster hoardings is that they are favourably considered if they are part of the temporary screening of a development site or where the general environment is so poor the hoarding would perform a positive function. In

other circumstances more careful consideration of the visual impact of the hoarding is required.

The poster hoarding proposed in this location will be seen against a backdrop of the substation and its open boundary fence in close proximity to the curtilage of St Michaels Presbytery, and the Presbytery itself, and adjoining an open fence surrounding an electricity substation. In such a location, notwithstanding the views of the Conservation Officer and the Conservation Advisory Working Party as indicated below, it is considered it would not materially adversely affect the views of the Presbytery which is on the Register of Locally Important Buildings as seen by those travelling north on the A34. The Church building, which is some distance from the hoarding, will still remain a dominant feature in the street scene. Trees within the grounds of the Presbytery should be able to be retained with the proposed positioning of the sign helping to visually separate the church from the hoarding.

It is considered that the proposed poster hoarding is not materially harmful to amenity in this location.

#### Public safety

The Highway Authority has not raise public safety concerns in respect of the position of the hoarding. They recommended a condition requiring the submission and approval of information relating to the installation and maintenance of the proposed advertisement and it is considered appropriate to impose such a condition in this case.



## **APPENDIX**

### **Policies and Proposals in the Approved Development Plan relevant to this decision:-**

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

Policy CSP1: Design Quality

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy N17: Landscape Character – General Considerations

### **Other Material Considerations**

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(March 2014\)](#)

### **Relevant Planning History**

Application 17/00316/DEEM3 for the erection of a 48 sheet unilluminated hoarding in a slightly amended position to that shown in the current application was withdrawn.

### **Views of Consultees**

The **Conservation Officer** advises that the church holds a prominent position on the A34 and the proposed advertisement hoarding will detract from the special character of the church at the entrance to the estate. The new location is certainly a little thought out but it is the fence around the substation which is unattractive, not the substation itself.

The **Landscape Development Section** has no objections.

The **Highway Authority** has no objections to subject to a condition requiring the submission and approval of a method statement about the location of the parking of vehicles during installation and maintenance and the type of equipment used for the installation.

The draft minutes of the **Conservation Advisory Working Party** indicate that they had mixed views about the proposal. Some members did express reservations that the sign will detract from the setting of the Presbytery which is a Locally Important building due to its height and scale

### **Representations**

None received.

### **Applicant/agent's submission**

The application form, plans, and photographs can be inspected at the Guildhall and on the website that can be access by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/Plan/17/00489/DEEM3>

### **Background Papers**

Planning File  
Planning Documents referred to

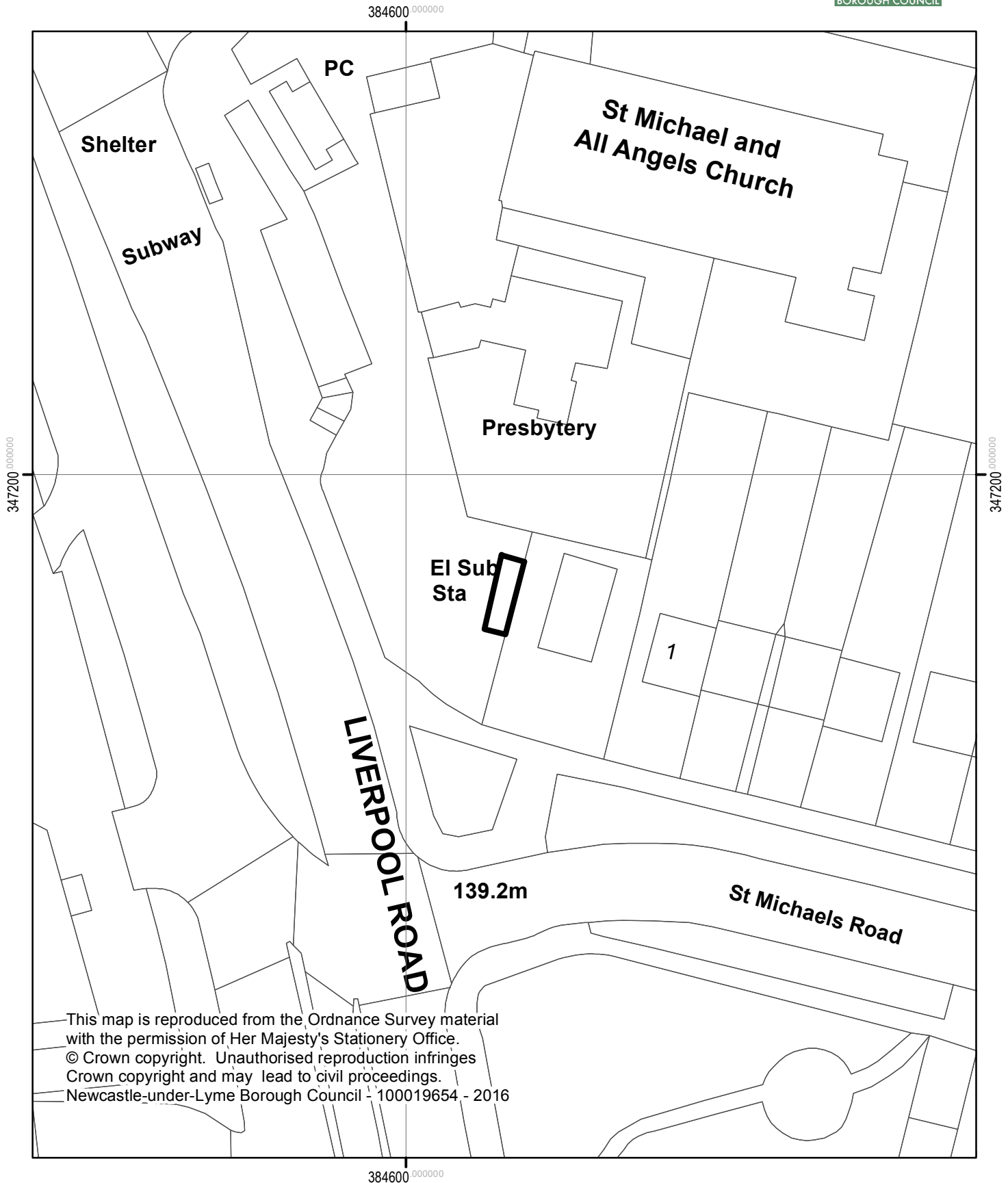
### **Date Report Prepared**

5<sup>th</sup> July 2017.

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**Site Adj St Michaels Presbytery  
Liverpool Road, Cross Heath**

**17/00489/DEEM3**



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**LAND AT ADJOINING A34 NEWCASTLE ROAD TALKE**  
**NEWCASTLE BOROUGH COUNCIL**

**17/00490/DEEM3**

The application is for advertisement consent for the erection of a 48 sheet unilluminated poster hoarding 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m.

The application site is within the Kidsgrove Urban Neighbourhood as specified on the Local Development Framework Proposals Map. The site lies adjacent to the east side of the A34 (Newcastle Road).

**The 8 week period for the determination of this application expires on the 1<sup>st</sup> June 2017.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Approved plans.**
- 2. Highway method statement to address installation and maintenance of the sign.**

**Reason for Recommendation**

There will be no harm to the amenity of the area or to public safety and as such the proposal is therefore acceptable.

**Key Issues**

The application is for advertisement consent for the erection of a 48 sheet unilluminated advertisement hoarding 6.32m in width, the panel is 2.98m high on legs measuring 1.22m giving a total height of 4.2m. The sign is to be located within a small landscaped area adjoining the A34, Newcastle Road to the rear of properties on Unity Way, near to the boundary of the Robert Coates Plant Sales site which is at the junction of Newcastle Road and Congleton Road. It would be parallel to the highway.

**Amenity**

The NPPF at paragraph 67, states that poorly placed advertisements can have a negative impact on the appearance of the built and natural environment.

National Planning Practice Guidance (PPG) indicates that in assessing amenity, the local planning authority should consider the local characteristics of the neighbourhood. The example given is if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features. It goes on to say that this might mean that a large poster hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

The PPG therefore identifies the 'extremes' where hoardings are and aren't acceptable. In many cases poster hoardings are not proposed in locations where the decision is as clear cut as highlighted in the Government guidance. Generally, within the Borough and in other areas, the approach often adopted in the consideration of poster hoardings is that they are favourably considered if they are part of the temporary screening of a development site or where the general environment is so poor the hoarding would perform a positive function. In

other circumstances more careful consideration of the visual impact of the hoarding is required.

The poster hoarding proposed in this location will be seen against a backdrop of trees within the landscaped area in a position between a lamppost and telegraph pole close to, and at right angles to, the south east facing boundary wall between the Robert Coates Plant Sales site and the open space. It will also be seen in the context of the trees both on the open space and further along the A34. In such a location it will not unacceptably encroach upon the wide landscaped verge which is visually important in this location. The Landscape Development Section do not object to the proposal.

In conclusion the proposed poster hoarding is not considered so harmful to amenity as to justify its refusal.

#### Public safety

The Highway Authority has not previously raised public safety concerns in respect of the position of the hoarding. They recommended a condition requiring the submission and approval of information relating to the installation and maintenance of the proposed advertisement and it is considered appropriate to impose such a condition in this case, given the high levels of passing traffic at this point and proximity to the traffic signal controlled junction

## **APPENDIX**

### **Policies and Proposals in the Approved Development Plan relevant to this decision:-**

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

Policy CSP1: Design Quality

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy N17: Landscape Character – General Considerations

### **Other Material Considerations**

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(March 2014\)](#)

### **Relevant Planning History**

Application 17/00313/DEEM3 for the erection of a 48 sheet unilluminated hoarding in a slightly amended position to that shown in the current application was withdrawn.

### **Views of Consultees**

The **Landscape Development Section** has no objections.

The **Highway Authority** has not commented on this application as yet. They raised no objections to 17/00313/DEEM3 subject to a condition requiring the submission and approval of a method statement about the location of the parking of vehicles during installation and maintenance and the type of equipment used for the installation.

The views of **Kidsgrove Town Council** have been sought and will be reported if received.

### **Representations**

None received.

### **Applicant/agent's submission**

The application form, plans, and photographs can be inspected at the Guildhall and on the website that can be access by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/Plan/17/00490/DEEM3>

### **Background Papers**

Planning File  
Planning Documents referred to

### **Date Report Prepared**

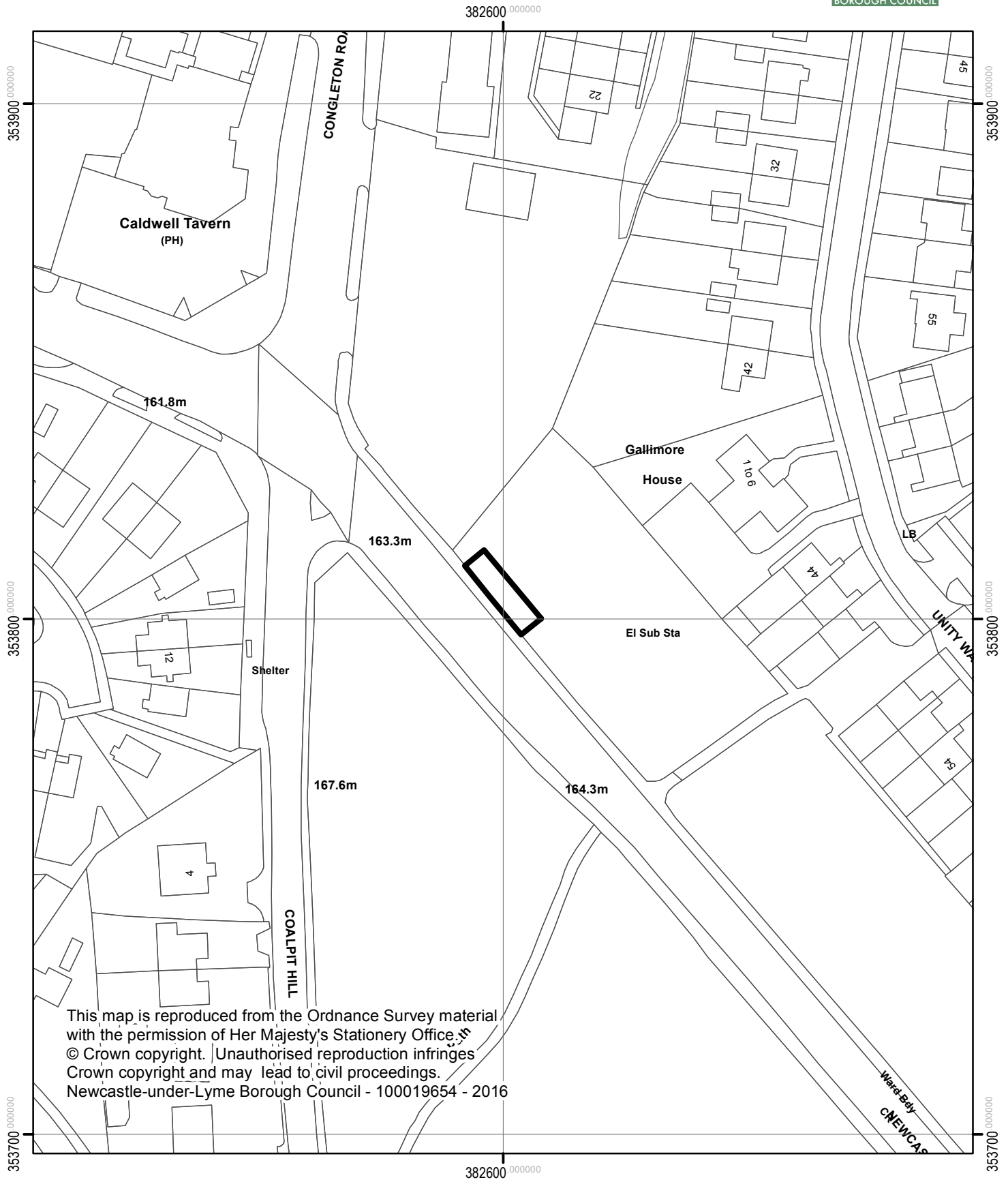
27<sup>th</sup> June 2017.

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# Land at Junction with A34 Linley Road Talke

17/00490/DEEM3



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**MONKEY TREE COTTAGE, HEIGHLEY LANE, BETLEY  
MR BRAYFORD**

**17/00335/FUL**

The application is for full planning permission for the retention of an additional bay to an existing kennel building.

The application site is located within the open countryside on land designated as being within the North Staffordshire Green Belt and an Area of Landscape Enhancement (policy N20), as indicated on the Local Development Framework Proposals Map.

**The 8 week determination period expired on the 19<sup>th</sup> June 2017.**

**RECOMMENDATION**

**PERMIT subject to the following conditions:**

- 1. Approved plans**
- 2. Prior approval of any external lighting scheme (to prevent light pollution and maintain dark skies in this rural location)**

**Reason for Recommendation**

The proposed development constitutes inappropriate development within the Green Belt. However, it is considered that there are very special circumstances that would outweigh the harm to the openness of the Green Belt thereby justifying approval of planning permission.

**Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework and no amendments were considered necessary

**KEY ISSUES**

Following the grant on appeal of the previous planning application for the retention of the replacement boarding kennels, construction works commenced but it soon became apparent that the new building was larger than that approved. The application proposes the retention of the additional southern 'wing' of the kennel building, even though this part of the building was removed from the appeal scheme in order to reduce the floor area of the building, bearing in mind its Green Belt location.

The site is located within an area of Landscape Enhancement, as indicated by the Local Development Framework Proposals Map.

The key issues in the determination of the application are:

- Is the development appropriate development within the Green Belt?
- Has sufficient information been submitted to demonstrate that the proposed size of building is the minimum necessary to meet the business needs?
- Will harm be caused to the visual amenities of the area of Landscape Enhancement?
- Will there be any harm caused to residential amenity?
- Do very special circumstances exist which would outweigh the harm caused by the inappropriate development, or any other harm?

**Is the development appropriate development within the Green Belt?**

Paragraph 89 of the National Planning Policy Framework states that development in the Green Belt should be regarded as inappropriate development, unless it is listed as an exemption in the NPPF.

The original kennels building measured approximately 225 cubic metres in size, based on a length of 20 metres, a depth of 4.5 metres and an approximate height of 2.5 metres.

The authorised replacement building measures approximately 378 cubic metres in volume, representing a 68% increase in size over the original building.

The new additional wing adds a further 36sq metres of floor area bringing the replacement building up to an approximate total cubic volume of 565 cubic metres.

The NPPF lists replacement buildings (of appropriate and minimal size) and extensions to existing buildings (as long as the resultant development is not disproportionate in size) as appropriate development. As the proposed extension is to a building that is still under construction, and adds a significant volume/floor area to the approved building, it is considered that it does not meet the criteria in the NPPF for appropriate development.

Therefore the application should be refused, unless a case for very special circumstances is made, which outweighs the harm caused by inappropriateness, or any other harm, to the openness of the Green Belt.

Has sufficient information been submitted to demonstrate that the proposed size of building is the minimum necessary to meet the business needs?

The applicant advises that the reason for the reinstatement of the southern wing of the kennel building arises from a change in the minimum standards now applied in the Licensing of Dog Boarding Establishments. These licences contain a number of conditions designed to ensure that animal welfare is maintained at a high level and not compromised.

The Environmental Health Division, who issue such licenses, advises that whilst the building does not follow all the design principles advocated for new build kennels (i.e. internal sleeping accommodation with external exercise runs) the currently proposed layout is such that adequate exercise and sleeping space can now be provided and as such they would have no objections to the proposed use of the building as boarding kennels. They further advise that the decision by the applicant to provide both sleeping and exercise space within the building severely restricts the number of dogs which can be accommodated and that there is a risk that the business may not have sufficient kennel capacity unless the additional wing applied for is added. There is a further risk that likely revisions to licensing standards may require boarded animals to have more space. The additional wing, therefore, offers scope for subsequent internal layout revision, which better future proofs the building.

On the basis of the advice received it is clear that the decision to include sleeping and internal exercise space has resulted in the building being larger than might otherwise have been required which has resulted in the need for an additional wing to ensure the viability of the business. It is, however, noted that licensing standards are likely to be revised and that in future boarded animals will require more space. Whether such factors amount to the very special circumstances required to justify inappropriate development in the Green Belt will be discussed below.

Will harm be caused to the visual amenities of the area of Landscape Enhancement?

Paragraph 56 of the National Planning Policy Framework states that good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Policy N20 of the Local Plan states that within areas of Landscape Enhancement, the Council will support, subject to other plan policies, proposals that will enhance the character and quality of the landscape. Within these areas it will be necessary to demonstrate that development will not further erode the character of quality of the landscape.

The approved building has been located to the rear of the associated dwelling and in what was part of a field. As at the appeal stage, the building would not be visible in views from the south and west due

to the engineering of the land that has taken place to sink the building into the land and also due to the land levels rising above the height of the building. The area of woodland to the south of the site also screens the building in this direction.

It is considered that the additional structure would not significantly erode the character of the landscape beyond that already having taken place in the construction works of the first stage of development.

Will there be any harm caused to residential amenity?

The only residential property that the proposed development is likely to have an impact upon is Monkey Tree Cottage itself. The Environmental Protection Division has commented that the development could cause noise disturbance, light pollution and odours, and requests that conditions are imposed on any permission to control light pollution.

If inappropriate development, do the required very special circumstances exist which would outweigh the harm caused by the inappropriate development, or any other harm?

The NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to say that LPAs should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The Design and Access statement includes the following:

*Model Licence Conditions require a much larger area for the housing of any size dogs in, 6 sq m per run area instead of the previously required 3.35 sq m. In order to ensure that the proposed kennels meet the requirements of the Licence Conditions the proposed layout shown on the attached drawings, including the additional bay of the building, has been sent to the Environmental Health Team and approved in principle. In order to get the 10 kennels required to sustain a viable business the additional bay of the building is required.*

As indicated above the kennel building was granted on appeal. In allowing the appeal the Inspector considered that the building as proposed was required because it replace existing kennels that were not fit for purpose and for which the renewal of a license was unlikely. The Inspector was persuaded that if the enterprise were to continue successfully an increase in size of the building would be justified and gave weight to this and the national and local plan policies supporting rural enterprises. The Inspector further considered that the harm to openness was slight. These matters, the Inspector concluded, amounted to the very special circumstances.

The addition of the wing increases the building beyond the size that the Inspector considered was acceptable and it has to be acknowledged that if the building was not to provide sleeping and exercise areas internally it would not need to be that large to accommodate the same number of dogs. It is, however, reasonable to assume that licensing requirements will change and that space standards will increase and as such the future of the business is safeguarded if a larger building is provided now. In addition for the business to remain viable it must not only meet existing and future licensing requirements it must also meet customer's standards who may wish for their boarded dogs to be able to have space to move around that is undercover but is separate from the sleeping area. Further, the impact on the openness of the Green Belt will not be significantly different to the impact of the building granted on appeal.

Overall it is considered that the matters above amount to the very special circumstances required to clearly outweigh the harm identified when assessed against the policies of the NPPF.

## APPENDIX

### Policies and proposals in the Development Plan relevant to this decision:

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

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

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy S3 Development in the Green Belt  
Policy N17 Landscape Character – General Considerations  
Policy N20 Area of Landscape Enhancement  
Policy T16 Development: General parking requirements

### Other Material Considerations

Relevant National Policy Guidance:

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(PPG\) \(2014\)](#)

Other Guidance

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

Relevant Planning History

14/00842/FUL Retention of Replacement Boarding Kennels Allowed on appeal  
[Consultation Responses](#)

**Audley Rural Parish Council – Support**

**Landscape Division** – Protection of adjacent trees throughout the construction period (previously requested) has not been carried out and damage to tree roots is evident. Previous damage to tree roots has not been dealt with and ground protection has not been installed. Subject to confirmation from highways that no further visibility splay is required I would raise no objection to the additional built section (already installed).

**Highway Authority** - No objections. Noted on site visit that the access to the kennels has not been constructed. The previous application for kennels application 14/00842 was refused by the LPA, but was subsequently allowed at planning appeal, in a decision notice dated 22 June 2016. Condition 2 of the appeal decision required the access to be completed in accordance with the submitted access plan stamped 15 April 2015.

**Environmental Health Division** - Construction works have potential to create noise and fugitive dust disturbance. Kennel developments have the potential to generate noise, primarily through the barking of dogs, which can significantly impact upon the surrounding area throughout the day and night. Nearest premises is approximately four hundred metres away and no records of complaints relating to noise. The recommendation to tie occupation of Monkey Tree Cottage to operation of the kennels previously under application 14/00842/FUL was rejected at appeal. Therefore there are no comments regarding noise impacts.

The application makes no reference to any external lighting of the proposed development, which is located within an inherently dark area at night. Requests that condition is applied to require prior approval of the lighting scheme which will be used to illuminate external areas to ensure that the night time character of the area is maintained and the isolated premises nearby are not adversely affected by lighting of the development.

The applicant should be aware that the number of dogs permitted under any licence is likely to be less than that which is proposed and that additional works may be necessary to meet the requirements of any licence granted. Amendments to the ventilation or heating arrangements may subsequently be required. These additional works should not alter the appearance of the building. The decision to provide both sleeping and exercise space within the building severely restricts the number of dogs which can be accommodated. There is a risk that the business may not have sufficient kennel capacity to be sustainable unless the wing of the building for which approval is sought is added. There is a further risk that likely revisions to licencing standards may require boarded animals to have more space. The additional wing offers scope for subsequent internal layout revision, which better future-proofs the building. No objections subject to conditions in respect of external lighting.

#### Representations

No representations received.

#### Applicants/agents submission

The requisite plans and application forms were submitted together with a Design and Access Statement. These documents can be viewed on the Councils website;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00335/FUL>

#### Background Papers

Planning files referred to  
Planning Documents referred to

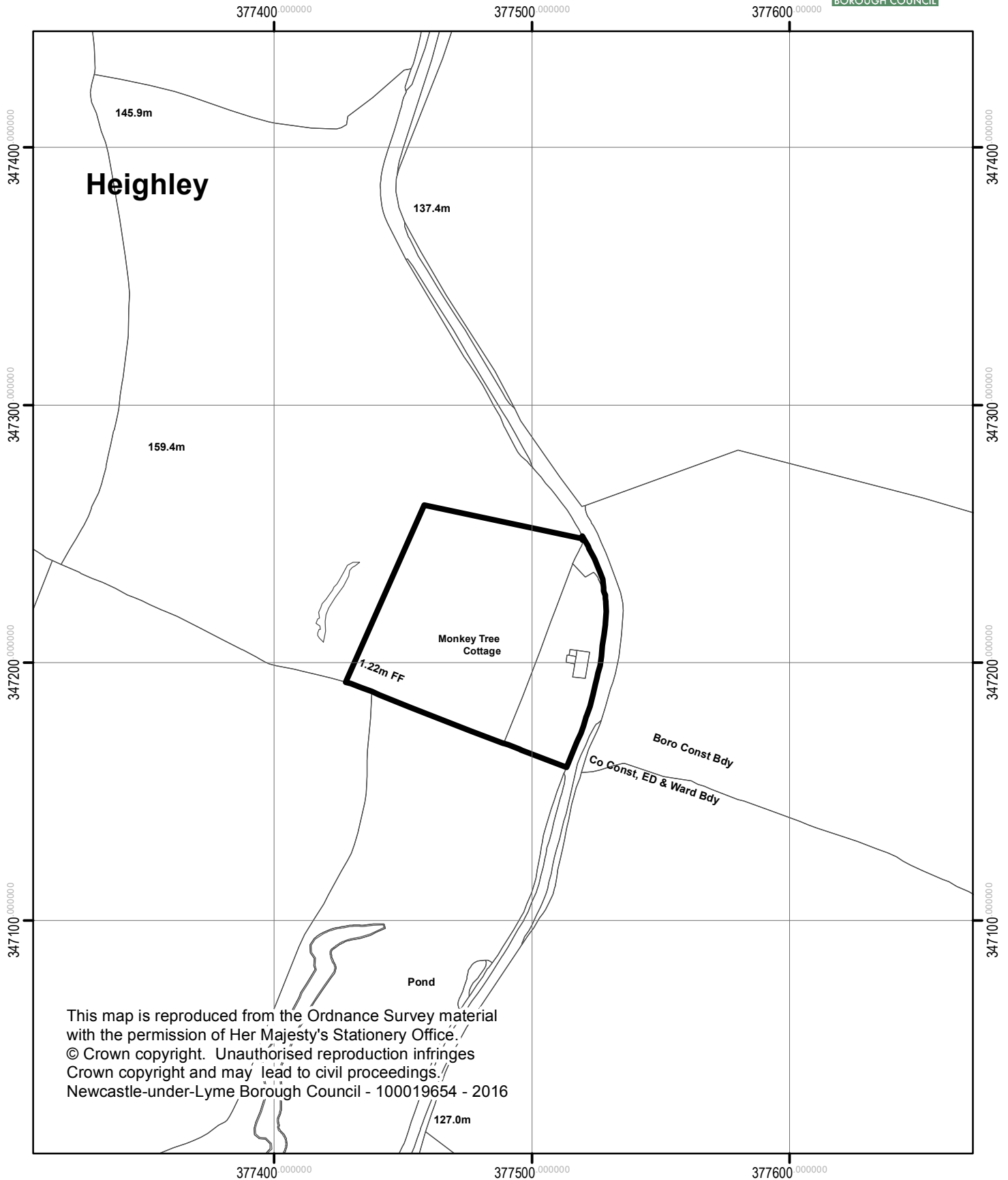
#### Date report prepared

1<sup>st</sup> July 2017

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17/00335/FUL



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EARDLEY HALL KENNELS, CROSS LANE, AUDLEY  
MR TIM JONES

17/00425/FUL

The Application is for full planning permission for the demolition of existing boarding kennel buildings and construction of a new boarding kennel building.

The application site is located within the open countryside on land designated as being within the North Staffordshire Green Belt and an Area of Landscape Enhancement (policy N20), as indicated on the Local Development Framework Proposals Map.

**The 8 week determination period expires on the 28<sup>th</sup> July 2016.**

## **RECOMMENDATION**

**Subject to the Environmental Health Division raising no objections following consideration of an acoustic report to be submitted by the applicant;**

**Permit subject to the following conditions;**

- i) Standard time limit**
- ii) Approved plans**
- iii) Materials as per approved plans and application form**
- iv) Demolition of existing reception and storage building within 3 months from the occupation of the new kennels**
- v) Landscaping scheme to include replacement tree planting**
- vi) Any appropriate conditions as recommended by the Environmental Health Division**

## **Reason for Recommendation**

The proposed replacement building would be materially larger than the buildings it replaces and therefore constitutes inappropriate development within the Green Belt. However, it is considered that the applicant has demonstrated that it necessary that the existing buildings to be replaced to meet current regulation and to ensure that this established rural business can continue to operate sustainably. This amounts to the very special circumstances that would outweigh the harm to the openness of the Green Belt which would justify approval of planning permission.

## **Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

Pre-application discussions were undertaken between the applicant and the LPA and the proposed development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

## **KEY ISSUES**

Full planning permission is sought for the demolition of existing boarding kennels, storage building and reception and the construction of replacement boarding kennels and associated ancillary buildings.

The existing boarding kennels is an established business which has been operating from the site since the 1980's.

The site lies within the open countryside which is designated as being within the Green Belt and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map.

The main issues for consideration in this application are;

- Is the proposal appropriate development within the Green Belt?
- Design and impact on the character and quality of the landscape,
- Environmental matters,
- Highway matters, and
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

#### Is the proposal appropriate development within the Green Belt?

Paragraph 79 of the NPPF indicates that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 89 of the NPPF indicates the types of development involving the construction of new buildings that are not inappropriate in the Green Belt. The identified exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

The application is to replace the existing dog kennel buildings and associated ancillary buildings. The applicant indicates that the existing buildings to be replaced have a volume of 388 cubic metres and the proposed replacement building would have a volume of 619 cubic metres. This would represent a materially larger building and the proposals are classed as inappropriate development within the Green Belt and should not be approved except in very special circumstances.

#### Design and impact on the character and quality of the landscape

Paragraph 56 of the National Planning Policy Framework states that good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people.

The site lies within an area of Landscape Enhancement (Policy N20), as indicated by the Local Development Framework Proposals Map. This policy supports development proposals that will enhance the character and quality of the landscape. Within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The site has been operating as a dog kennels since the 1980s and has a number of kennels and ancillary buildings associated with this use.

The buildings to be removed, whilst maintained to a certain standard, are in need of updating and replacement. The most prominent building is the flat roof reception to the front of the site and visible from the road. This building, along with kennels and storage building will be demolished and consolidated into one building,

Due to the location of the proposed building and the removal of the existing flat roof reception building it is considered that the proposed building would not erode the character and quality of the landscape notwithstanding that it would result in the loss of a young Sweet Chestnut tree. It would have limited views and would be seen in the context of the existing buildings.

In light of the above, the proposals are considered to represent an acceptable design that would comply with the requirements of the NPPF whilst also being in accordance with local planning policy.

#### Environmental Matters

Paragraph 17 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The Environmental Health Division (EHD) have indicated that the proposal will see the removal of a kennel block which is currently open to air and its replacement with an enclosed kennel block with forced air ventilation.

This is likely to result in noticeable reduction in noise levels from this site and EHD have no objections to the principal of the application but they have indicated that a decision should be delayed until an acoustic assessment has been submitted and reviewed. In this respect the applicant has instructed an acoustic consultant to conduct a noise assessment. This is likely to be submitted prior to the Committee however it is unlikely that the views of EHD will not have been received. Notwithstanding this it is not anticipated that EHD will have grounds to recommend refusal and subject to any reasonable and appropriate conditions that are recommended by EHD it is considered that the development would be acceptable and not harm the amenity of the area.

#### The impact on highways safety

The existing access and parking arrangements would be improved by the removal of the reception area and the number of kennels would be reduced.

The Highway Authority has raised no objections and the proposed development would be acceptable in highways terms.

#### Do the required very special circumstances exist (to justify inappropriate development)?

The NPPF indicates that very special circumstances (to justify inappropriate development) will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The applicant has submitted a planning statement to support the application which states that in 2016 a new set of Model Licence Conditions for Dog Boarding Establishments was released which have a wide ranging impact on the required conditions for boarding dogs. In response to this new set of guidelines the applicant has identified a need to upgrade some of the existing kennels on site to meet these new regulations and provide their customers with boarding facilities which comply with these standards.

The Model Licence Conditions for Dog Boarding Establishments 2016 replaces the original version published in 1995. Since then there have been developments in the understanding of animal welfare and also the introduction of the Animal Welfare Act in 2006.

As part of this application the current reception building (and the extension approved in application No 16/00117/FUL), a separate storage building and an existing kennel block will be demolished and offset against the new development. The new kennel building will provide state of the art accommodation for the dogs which will meet or exceed the new 2016 Model Licence Conditions for Dog Boarding Establishments.

As discussed the proposed buildings would be 63% larger than the existing buildings to be replaced. However, the applicant has indicated that the number of kennels to be demolished in the old building is 20, whereas the number proposed in the new building is only 15. This reduction in kennel numbers would reduce the revenue of the business. Any further reduction to the size of the building would require the loss of further kennels which would further impact on the business.

The proposal also includes the replacement of the reception building and storage shed. These ancillary facilities are to be incorporated into the proposed replacement building. The proposed ancillary accommodation would have a volume of 113 cubic metres which would be less than the existing reception building, the previously approved extension and the storage shed put together.

The proposed replacement buildings would result in some minimal enhancement to the landscape due to its design and the replacement of existing buildings which have a dated and more prominent position. Taking into consideration that national and local plan policies support rural enterprises it is considered that the change in the Model Licence Conditions for Dog Boarding Establishments and the

impact that this has on the existing rural business is considered to represent the very special circumstances that would outweigh the harm caused to the openness of the Green Belt by virtue of the increased size of the proposed replacement building.

## APPENDIX

### Policies and proposals in the Development Plan relevant to this decision:

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

Policy CSP1 Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy ASP5: Rural Area Spatial Policy

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy S3 Development in the Green Belt  
Policy T16: Development – General Parking Requirements  
Policy N17 Landscape Character – General Considerations  
Policy N20 Areas of Landscape Enhancement

### Other Material Considerations

Relevant National Policy Guidance:

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(March 2014\)](#)

Supplementary Planning Guidance/Documents

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

Relevant Planning History

16/00117/FUL	Proposed single storey extension to existing office	Permit
14/00970/FUL	Extension to office and new pitched roof	Refused (appeal dismissed)
99/00366/FUL	Erection of 2 boarding kennels to accommodate a total of 24 dogs	Permit
93/00127/FUL	Erection of 20 Dog Kennels	Permit
N10957 (1982)	Dog boarding kennels	Permit

Consultation Responses

**Audley Parish Council** supports the application

The **Highway Authority** raises no objections

The **Environmental Health Division** raises no objections to the principal of the application. However consider that a decision should be delayed until such time as an acoustic assessment has been submitted and reviewed by Environmental Health.

The **Landscape and Development** raises no objection to the loss of an early mature Sweet Chestnut tree and suggests that a landscaping should be carried out to soften the visual impact of the development within the surrounding rural landscape setting which should include a replacement tree.

Representations

One letter of support has been received indicating that the business is well run and established. They offer local employment and work experience opportunities.

Applicants/agents submission

The requisite plans and application forms were submitted. A planning supporting statement has been submitted to support the application which seeks to justify the development proposed. These documents can be viewed on the Councils website;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00425/FUL>

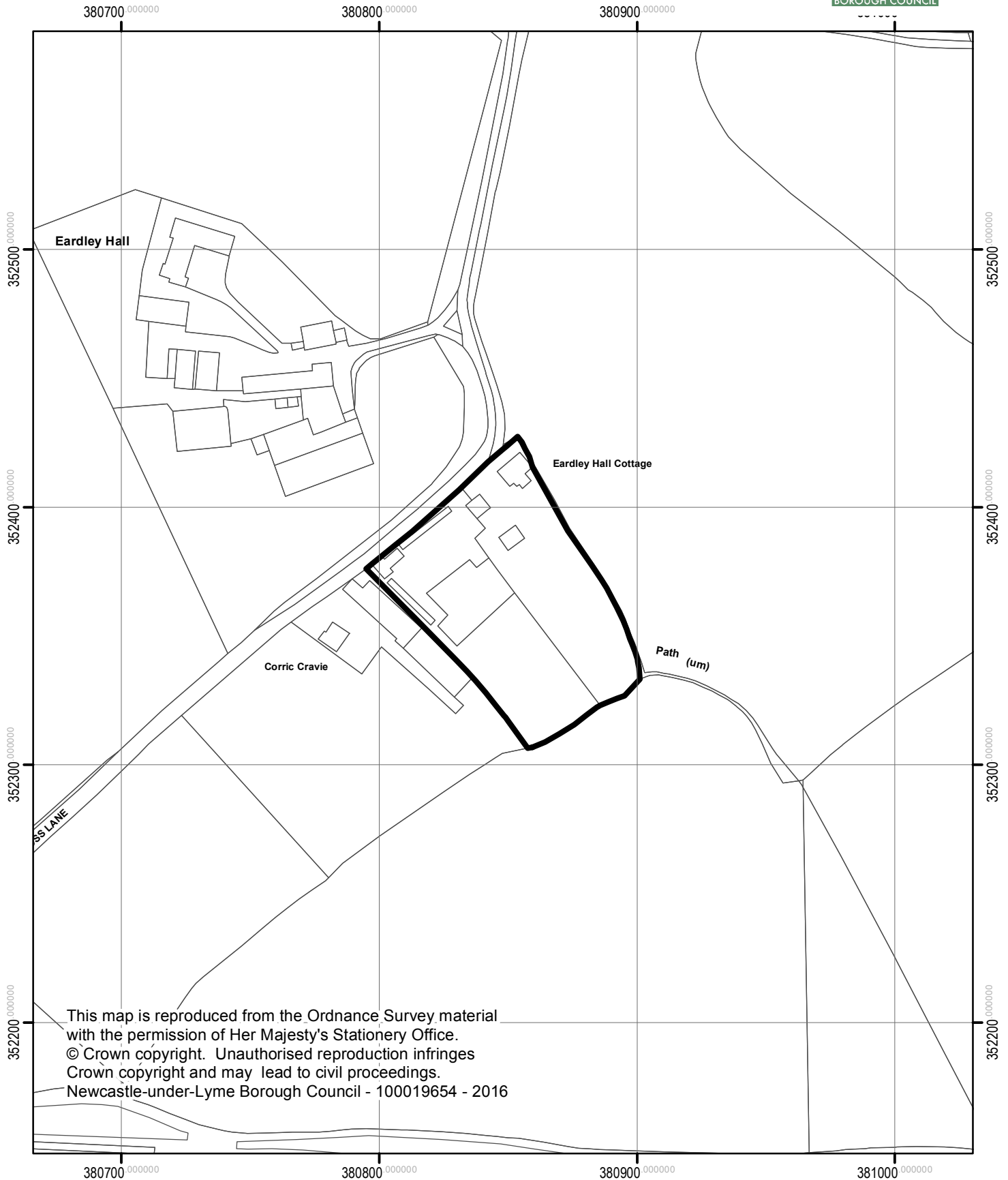
Background Papers

Planning files referred to  
Planning Documents referred to

Date report prepared

3<sup>rd</sup> July 2017





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**15, MORSTON DRIVE, CLAYTON**  
**MR & MRS P EVANS**

**17/00472/FUL**

The application is for full planning permission for the erection of a detached outbuilding to be used for a dog grooming business.

The application site is located within the Major Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

**The 8 week period for the determination of this application expires on 11<sup>th</sup> August 2017.**

**RECOMMENDATION**

**PERMIT, subject to conditions relating to the following: -**

- 1. Standard Time limit for commencement of development**
- 2. Approved plans**
- 3. Hours of use**
- 4. Refuse storage and collection arrangements**

**Reason for Recommendation**

The building would not appear out of keeping with the character of the dwelling or the residential area and there would be no material adverse impact upon highway safety or residential amenity as a consequence of the operation of the dog grooming business subject to conditions imposing certain restrictions.

**Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

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

**Key Issues**

This is an application for full planning permission for the erection of a detached outbuilding to be used for a dog grooming business. The application site is located within the major urban area of Newcastle as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of the application are:

- The design of the development
- The impact upon residential amenity
- Impact on highway safety

**The design of the development**

Paragraph 56 of the National Planning Policy Framework states that good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people.

The proposed outbuilding would measure 3.7m x 4m in plan (including an enclosed veranda area) with a maximum ridge height of 2.4m. The materials would comprise timber with a felt roof. The building would be sited to the bottom of the rear garden of the dwelling adjacent to the rear fence. It would have the appearance of a typical garden summerhouse and would not appear out of keeping with the character of the dwelling or the residential area.

**The impact upon residential amenity**

The National Planning Policy Framework states within paragraph 9 states that pursuing sustainable development involves seeking positive improvements in peoples quality of life, including improving the conditions in which people live, work, travel and take leisure. The impact upon the amenity of surrounding residents has to be taken into consideration. Paragraph 17 sets a core planning principle that planning should seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The applicant proposes to use the outbuilding for a dog grooming business. Information submitted with the application states that a maximum of 4 dogs are to be groomed per day, with just one dog at the property at any one time. The hours of operation are to be between 09.00 and 18.00 Monday to Friday and between 09.30 and 13.00 on Saturdays.

The use of appointment slots and the limited size of the outbuilding would ensure that only one dog at a time could be groomed and on this basis, it is not considered that the impact on the neighbouring properties due to noise or disturbance would be significant. The Environmental Health Division raises no objections to the proposal subject to the imposition of conditions. It is not considered that any objection could be sustained on the grounds of impact on residential amenity.

#### Impact on highway safety

The application property is located within a quiet cul-de-sac. There are two parking spaces within the curtilage of the dwelling. Given that a maximum of 4 dogs are to be groomed at the property on any given day, and that each would involve a customer dropping off and picking up their dog for a two hour appointment, it is not considered that the proposed business would generate a significant amount of traffic movements. The Highway Authority has no objection to the proposal and it is not considered that an objection could be sustained on highway safety grounds.

## **APPENDIX**

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

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

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Policy CSP1: Design Quality

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy T16: Development – General Parking Requirements

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

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(PPG\) \(2014\)](#)

[Supplementary Planning Guidance/Documents](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

[Relevant Planning History](#)

None

[Views of Consultees](#)

The **Environmental Health Division** has no objections subject to conditions regarding hours of use and refuse storage and collection arrangements.

The **Highway Authority** raises no objections.

[Representations](#)

None received to date

[Applicant's/Agent's submission](#)

The application forms and plans have been submitted. These documents are available for inspection at the Guildhall and searching under the application reference number 17/00472/FUL on the website page that can be accessed by following this link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00472/FUL>

### **Background papers**

Planning files referred to

Planning Documents referred to

### **Date report prepared**

4<sup>th</sup> July 2017

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**NEW WOODHOUSE FARM, APEDALE ROAD, WOOD LANE**  
**MR & MRS GEORGE PROCTOR**

**17/00457/FUL**

The application is for full planning permission for a ground floor extension and alterations to the detached farm house.

The application site lies in the Green Belt and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

**The 8 week period for the determination of this application expires on 26<sup>th</sup> July 2017.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- i) Standard time limit**
- ii) Approved plans**
- iii) Materials as per approved plans and application form**
- iv) Removal of permitted development rights for extensions, external alterations and outbuildings**

**Reason for Recommendation**

The proposed extension is considered to represent appropriate development within the Green Belt that would not harm the openness of the Green Belt or the character of the landscape. The extensions are also of a subordinate and acceptable design. The proposals therefore comply with the policies of the development plan and the guidance and requirements of the National Planning Policy Framework 2012.

**Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

Pre application discussions were undertaken between the applicant and the LPA and the proposed development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

**Key Issues.**

The application is for full planning permission for a ground floor extension and alterations to the detached farm house.

The application site lies in the Green Belt and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

A public footpath (Audley 74) runs in close proximity to the property; however the location of the proposed extension would not interfere with its route and would not adversely affect the enjoyment of the users of the footpath. The key issues in the determination of this planning application are therefore considered to be:

- Is the proposal appropriate development in the Green Belt?
- The design of the proposals and the impact upon the Area of Landscape Enhancement, and
- If inappropriate development, do the very special circumstances exist to overcome the harm to the Green Belt?

Appropriate or inappropriate development within the Green Belt?

Paragraph 79 of the recently published NPPF details that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.”

The NPPF further details in paragraph 89 that local planning authorities should regard new buildings within the Green Belt as inappropriate. Exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building and the replacement of a building provided that it remains in the same use and is not materially larger than the building it replaces.

The existing farmhouse was granted permission in the 1980's and has not been extended since. The proposed extension would be to the side and rear of the existing detached dwelling. The applicant has provided volume calculations that indicate that the original farmhouse has a volume of 476 cubic metres and the proposed extension would have a volume of 236 cubic metres. The proposed extension would result in a volume increase of 50% over and above the size of the original dwelling. On this basis it is considered that the extension represents appropriate development in the Green Belt.

However, due to the volume increase it is considered that permitted development rights should be removed for extensions and alterations in order to control future extensions and alterations to the property in the interests of protecting the openness of the Green Belt.

#### The design of the proposals and the impact upon the Area of Landscape Enhancement

Paragraph 56 of the National Planning Policy Framework states that good design is a key aspect of sustainable development, indivisible from good planning, and should contribute positively to making places better for people.

Policy H18 refers to the design of residential extensions, where subject to planning control. The policy states:

“Proposals to extend dwellings will be favourably considered, subject to other policies in the Plan, so long as the following requirements are satisfied:

- i) The form, size and location of each extension should be subordinate to the design of the original dwellings.
- ii) The materials and design of each extension should fit in with those of the dwelling to be extended.
- iii) The extension should not detract materially from the character of the original dwelling or from the integrity of the original design of the group of dwellings that form the street scene or setting.”

The proposed extension is single storey and located to the side and rear of the property. In this location the extension would have minimal impact from any main vantage points within the locality due to its location on an existing farm.

The proposals represent a subordinate and acceptable design, subject to a condition which secures materials that match the existing farmhouse.

The site lies within an area of Landscape Restoration (policy N21) as indicated by the Local Development Framework Proposals Map. The proposals would maintain the character and quality of the landscape by virtue of the design, use of materials and the location, with minimal views from the wider area.

The design of the proposals are therefore considered acceptable and in accordance with policies of the local plan and the requirements of the NPPF.

## **APPENDIX**

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

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

Policy SP1: Spatial Principles of Targeted Regeneration  
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 \(NLP\) 2011](#)

Policy S3: Development in the Green Belt  
Policy N17: Landscape Character - General Considerations  
Policy N21: Area of Landscape Restoration

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

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(PPG\) \(2014\)](#)

[Supplementary Planning Guidance/Documents](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document \(2010\)](#)

[Space Around Dwellings \(SAD\) SPG \(July 2004\)](#)

[Relevant Planning History](#)

N14657 (1985) Erection of dwelling in connection with agricultural purposes Permit

N14657/D1 (1987) Erection of dwelling in connection with agricultural purposes Permit

[Views of Consultees](#)

**Audley Parish Council** supports the application.

The **County Rights of Way Officer** advises that the submitted plans don't recognise the existing of Public Footpath No 74 which runs adjacent to the proposed right of way. The attention of the developer should be drawn to the existence of the path and to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path. It is important that users of the path are still able to exercise their public rights safely and that the path must be reinstated if any damage occurs to the surface as a result of the proposed development. In addition the developer also needs to confirm that they have a private right to use the footpath with vehicles and that it must be stressed to them that public use of the highway takes precedence i.e. vehicles need to give way to them

[Representations](#)

None received to date

[Applicant's/Agent's submission](#)

The application is supported by the requisite floor plans and elevations These documents can be viewed by following this link to the application file on the Councils website; <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00457/FUL>

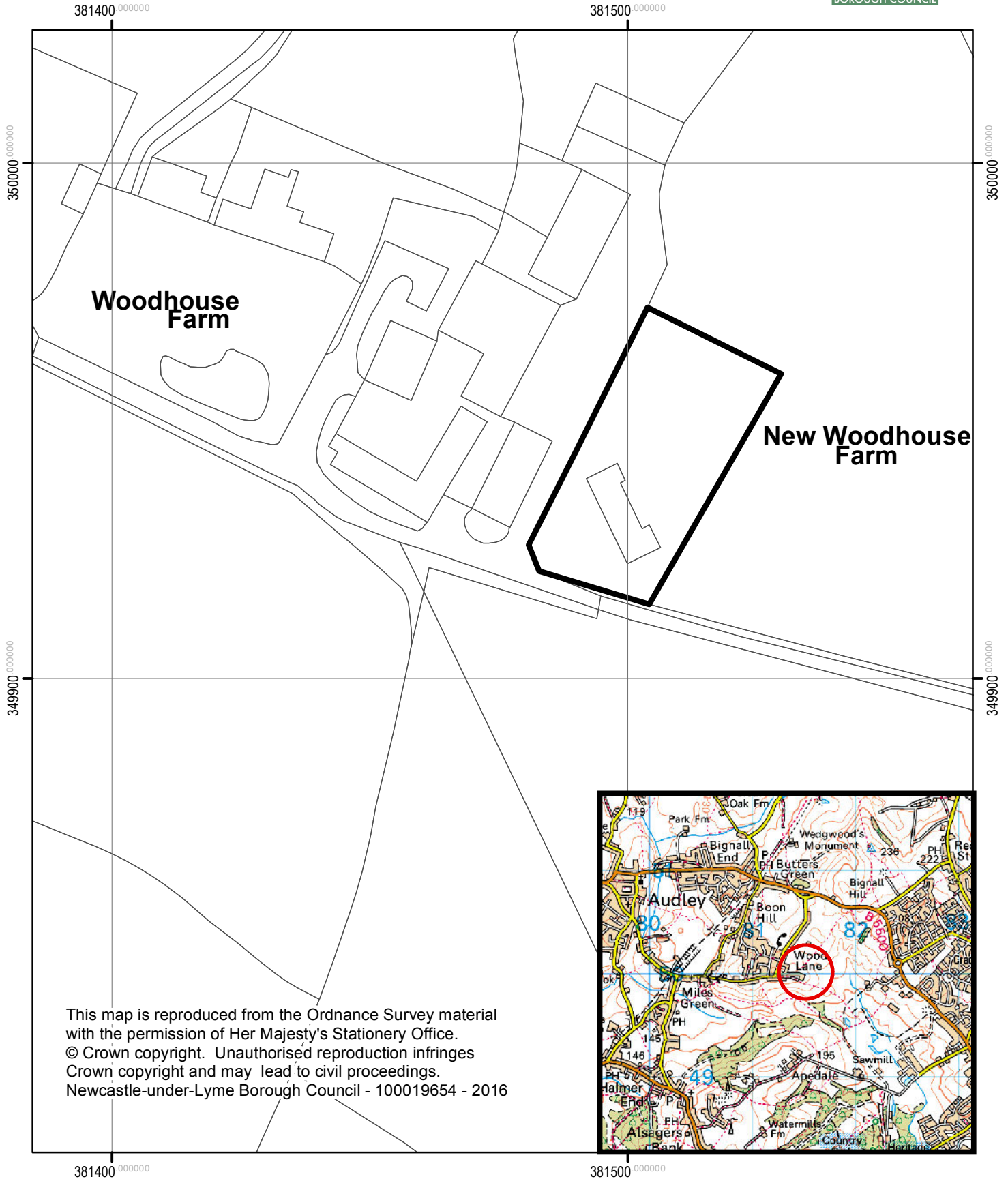
**Background papers**

Planning files referred to  
Planning Documents referred to

**Date report prepared**

27<sup>th</sup> June 2017

**17/00457/FUL**



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OAK LODGE, MUCKELSTONE WOOD LANE, LOGGERHEAD  
MR GARY SPENCER

17/00396/FUL

The Application is for full planning permission is for the erection of a single storey rear extension and a single storey extension to the garage.

The application site is located within Loggerheads Village Envelope as indicated on the Local Development Framework Proposals Map.

**The 8 week determination period expires on the 6<sup>th</sup> July 2017.**

## **RECOMMENDATION**

**Permit subject to the following conditions;**

- i) Standard time limit**
- ii) Approved plans**
- iii) Materials as per approved plans and application form unless otherwise agreed by the Local Planning Authority**

## **Reason for Recommendation**

In accordance with policy the proposed extensions are acceptable in design and will not adversely affect the living conditions of adjoining residents .

## **Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework and no amendments were considered necessary.

## **KEY ISSUES**

Full planning permission is sought for a front and rear single storey extension. The key issues in the determination of the application are as follows:-

1. the acceptability of the design of the proposal, and
2. the impact of the development on residential amenity.

### **Acceptability of the design of the proposal**

Policy CSP1 of the Core Spatial Strategy outlines how the design of new development is assessed which includes amongst other requirements the need to promote and respect the area's character and identity.

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Saved policy H18 of the Local Plan relates specifically to the design of residential extensions and advises that the form, size and location of the extension should be subordinate in design to the original dwelling to be extended and the extension should not detract materially from the character of the original dwelling or from the integrity of the original design of the group of dwellings that form the streetscene or setting.

The proposed garage extension is located on a two storey projecting gable at the front of the property. The extension will project further forward by 1.46m and will be constructed in brick and tile to match the existing house. This extension is subordinate in design and will not detract materially from the character of the original dwelling. In addition it will be acceptable in appearance within the streetscene.

The other proposal is for a rear extension that extends to the side of an existing flat roofed rear extension. The proposed extension will project further out from the original rear wall than the existing extension and will also be higher than that extension by 0.5m. The proposed extension is also of a flat roofed design but unlike the existing brick extension it is proposed to clad the new addition in zinc cladding with vertical standing seams. The zinc cladding is to be added to the existing extension so that the extent of the rear additions to the building will have the same external facing materials. A large proportion of the existing and proposed rear extension will be glazed.

The design of the extension therefore is a complete contrast to the more traditionally designed original dwelling, however given that it is single storey and located at the back of the property it will be subordinate in appearance and will not be harmful to the character of the original dwelling. It will not be visible from within the street scene and will therefore not have any impact on the integrity of that street scene.

Overall it is considered that the proposal complies with design guidance within policy H18 of the Local Plan, and paragraph 56 of the NPPF.

#### Residential Amenity

Supplementary Planning Guidance (SPG) on Space Around Dwellings provides guidance on privacy, daylight standards and environmental considerations. There are no neighbouring properties adversely impacted upon by the proposal in accordance with the advice of the SPG.

There are properties directly to either side and rear of the application however such properties are generously spaced and the rear extension will not be materially affected the living conditions of the occupiers of those properties. Overall it is considered that the proposal will not adversely affect the living conditions of neighbouring residents.



## **APPENDIX**

### **Policies and proposals in the Development Plan relevant to this decision:**

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

Policy CSP1 Design Quality  
Policy ASP6: Rural Area Spatial Policy

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

H18: Design of Residential Extensions, where subject to planning control  
N17: Landscape Character – General Consideration

### **Other Material Considerations**

Relevant National Policy Guidance:

[National Planning Policy Framework \(NPPF\) \(2012\)](#)

[Planning Practice Guidance \(PPG\) \(2014\)](#)

Other Guidance

[Space Around Dwellings \(SAD\) SPG \(July 2004\)](#)

Relevant Planning History

N4968 (1977) Lounge and kitchen extension Permit

Consultation Responses

**Loggerheads Parish Council** has no objection

Representations

None received

Applicants/agents submission

The requisite plans and application forms were submitted. These documents can be viewed on the Councils website;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00396/FUL>

Background Papers

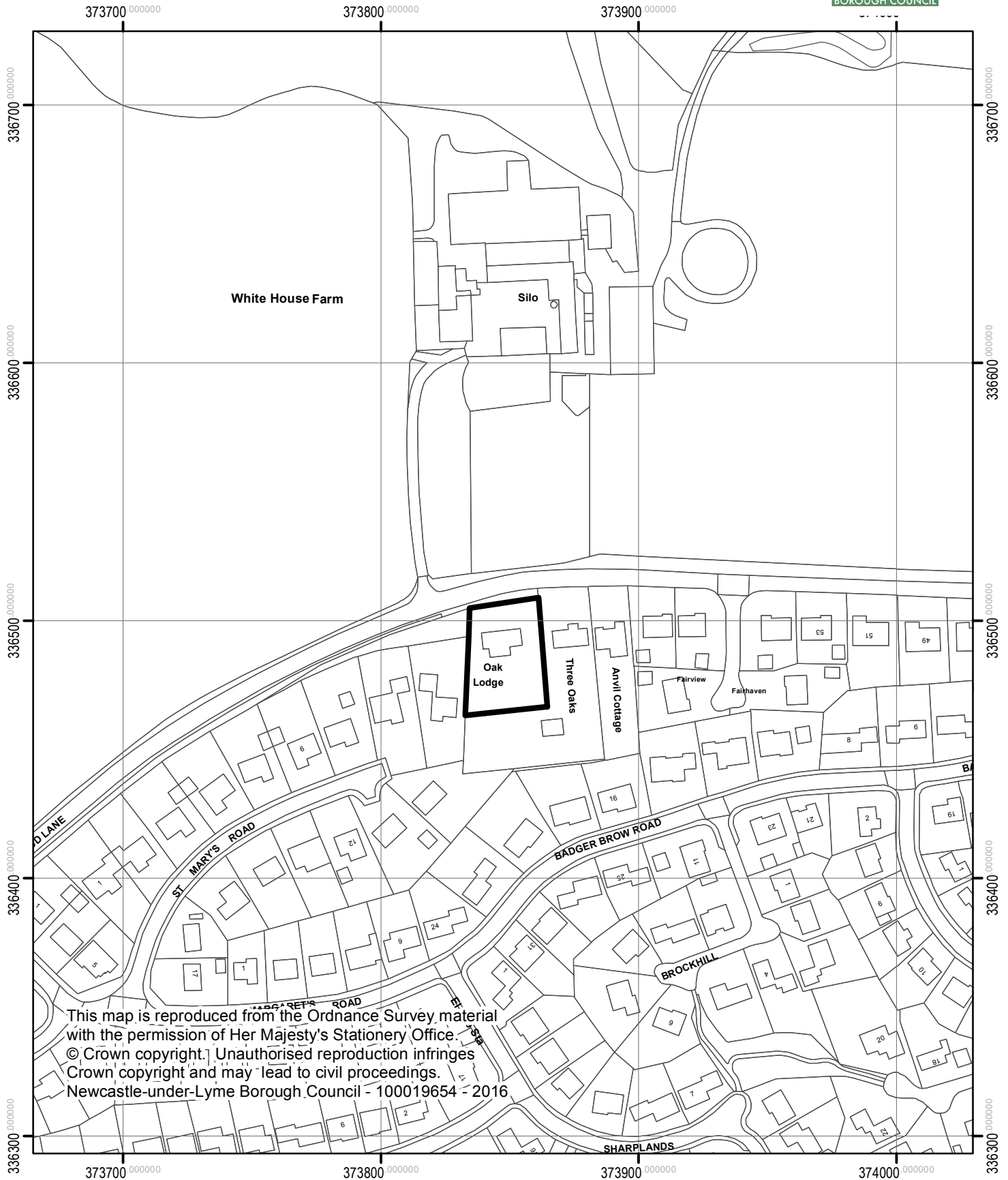
Planning files referred to  
Planning Documents referred to

Date report prepared

1<sup>st</sup> July 2017

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17/00396/FUL



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Planning Committee 18<sup>th</sup> July 2017

QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED

The purpose of this report is to provide details of progress made on those cases where enforcement action has been authorised either by the Planning Committee or under delegated powers. Members should note that many breaches of planning control are resolved without recourse to the taking of formal enforcement action.

Since the last report to the Planning Committee at its meeting on the 28<sup>th</sup> March 2017 no new case has been added to this list. 4 cases are reported upon. Details of all the cases, the progress made within the last Quarter, and the targets for the next Quarter are contained within the attached Appendix.

RECOMMENDATION

**That the information be received.**

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
14/00049/207C2	<p>Land off Pepper Street, Hollywood Lane, Newcastle.</p> <p>Unauthorised siting of a caravan for residential use.</p>	5.8.15	<p>An Enforcement Notice has been served which would have taken effect on 28<sup>th</sup> February 2016 had an appeal not been lodged. The EN requires the cessation of the use of the land residential purposes; the removal of the caravan and associated structures and paraphernalia; and the removal of any fencing erected on the perimeter of the land.</p> <p>The appeal was considered at an Inquiry on 14<sup>th</sup> February 2017 and a decision has now been received (which is reported elsewhere on this agenda). The Inspector upheld the notice and as such it took effect on the date of the appeal decision, 21<sup>st</sup> February. The steps set out in the notice have to be complied within six months i.e. by 21<sup>st</sup> August 2017.</p>	Site visit to establish whether the notice has been complied with.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
15/00037/207C2	<p>Land at Doddlespool, Main Road, Betley</p> <p>Breaches of conditions imposed on planning permission reference 14/00610/FUL for the retention of a water reservoir, formation of hardstandings and repairs to the existing track.</p>	20.4.15	<p>A Stop Notice (SN) and Enforcement Notice (EN) were served on 24<sup>th</sup> April 2015. The SN took effect on 30<sup>th</sup> April 2015. The EN took effect on 27<sup>th</sup> May 2015.</p> <p>Members have previously been advised that the owner has been prosecuted twice following his failure to comply with the terms of the notice. Following the last court case in November 2016 the owner was given a further period of time (until 15<sup>th</sup> December 2016) for compliance.</p> <p>It was established at a site visit on 20<sup>th</sup> June that the portacabin and commercial trailer have been dismantled and are not in use. Whilst some remnants of the structures remain on site, contrary to the requirements of the notice, it is not considered that it would be in the public interest to pursue full compliance of the notice through the court.</p> <p>Members have also previously been advised that used tyres have been imported and deposited on the site which are being utilised in the construction of a fodder beat store and TB testing facility. Your officers previously concluded that expert advice is required on the key questions of whether such a structure is reasonably necessary for the purposes of agriculture within the unit and whether it is designed for the purposes of agriculture – in order to determine whether this is permitted development. The advice received is that the structure is larger than the needs which might be generated by the Doddlespool Unit but may be appropriate in respect of the unknown requirements of a wider agricultural unit of which it is a part. In addition the use of waste tyres is unusual and does not reflect the type of uses promoted in best practice guidance.</p> <p>The County Council, as the Waste Authority, have indicated that the advice received is not sufficient for them to conclude that a waste operation has taken place against which enforcement action would be justified.</p> <p>The waste that has been imported onto the site in the form of covered bails remains with the Environment Agency, in conjunction with the County Council, to address. It is understood that the Environment Agency have taken formal action in this regard.</p>	Reach a position as to what action, if any, is required in respect of the partially constructed fodder beat store and TB testing facility.

Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
14/00036/207C3	<p>5 Boggs Cottages, Keele Road, Keele</p> <p>Unauthorised use of land for the siting of a mobile home</p>	5.1.16	<p>Following the resolution by Planning Committee at its meeting on 5<sup>th</sup> January 2016 resolved that the Head of Business Improvement, Central Services and Partnerships be authorised issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 for the removal of the mobile home and associated paraphernalia from the site within six months. The Notice was subsequently served and in the absence of any appeal has come into force on the 13<sup>th</sup> July 2016. Compliance was due by 13<sup>th</sup> January 2017 and a subsequent visit to the site has established that the Notice has not been complied with.</p> <p>Discussions has taken place with the owner and this has been followed up with a letter highlighting that the Notice has not been complied with and that compliance with the Notice will be pursued. Within the letter the owner has been encouraged to set out a timetable for the removal of the caravan.</p> <p>An appeal has been lodged against the refusal of planning permission to allow the occupation of the mobile home by others (application reference 16/00969/FUL) and a start letter and timetable for the appeal process are awaited. It is not anticipated that the caravan will be removed from the site whilst the appeal remains undetermined.</p>	<p>Await a response to the letter sent to the owner of the caravan. If, as anticipated, the indication is that there is no intention to remove it before the appeal has been determined consideration will be given, in conjunction with Legal Services, as to when action should be taken to secure its removal (i.e. should this be before or after the appeal decision).</p>



Report Ref	Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
08/00204/207	<p>Land off Keele Road, Newcastle</p> <p>Non-compliance with condition 9 of planning permission 11/00430/FUL for the erection of 61 dwellings (amended layout to that already approved including an addition 13 dwellings)</p>	20.10.16	<p>Various planning permissions have been granted for residential development on land off Keele Road, Newcastle (known as Milliner's Green). Due to the proximity of the site to the existing Scrap Yard (Hampton's) and landfill site (Walleys Quarry) certain of the planning permissions granted were subject to a requirement that an acoustic barrier should be installed along the western boundary of the site. A fence was erected and due to concerns about the standard of the fence when planning permission was granted in 2012 for the erection 61 dwellings (ref. 11/00430/FUL) a similar requirement was imposed.</p> <p>As the developer has not addressed the concerns expressed regarding the suitability of the fence, despite being approached by officers on a number of occasions and the developer offering assurances that works to the fence would start, it was decided that appropriate enforcement action was necessary. The action required is the replacement of the existing fence with an acoustic fence of a suitable standard.</p> <p>The Enforcement Notice was served on 30<sup>th</sup> June.</p>	Monitor to ensure that the steps within the notice are completed with the required time period.

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## Report on Open Enforcement Cases

### Purpose of the Report

To inform members of the current situation regarding the enforcement caseload.

### Recommendations

- That the report be received
- That a further update be provided alongside the next quarterly monitoring report on cases where enforcement action has been authorised.

### **Background**

In accordance with previous Committee decisions, the format of this report shows existing and previous enforcement cases. The Table included in this report shows the total number of outstanding cases in one format (shown below).

In the last quarter (January – March 2017) a further 64 new cases have been reported, higher than the previous quarter (61). The current number of open cases is 300 (more than at the end of the last quarter). The number of open cases has therefore increased for the third consecutive quarter.

The increase in number of open cases for the third quarter can be attributed, to some extent, to the nature of the cases which are taking longer to reach a resolution and the lack of planning officer resources is also considered to be a contributory factor. The amount of officer resource will increase following the successful recruitment of a Trainee Planning Officer who is unlikely to have much involvement, at least initially, in enforcement case work but will be enable a reduction in the caseload of other officers.

A number of the cases indicate in the Table below have associated pending planning applications that are awaiting determination 9 as at 25 May 2017).

### **Conclusions**

It remains inevitable that some cases in the 'backlog' will remain open for some time because of their complexity.

Progress continues to be made in tackling older cases and there is still a significant body of work being undertaken behind the scenes, which has lead to progress in several complex cases. Officers' enforcement workload is regularly reviewed to ensure continuity and case progression, and will continue to be undertaken.

### **Current Outstanding Enforcement Cases**

The Table below shows the current statistics in comparison to the previous Quarter.

#### ***Current Enforcement Status***

<b>Year</b>	<b>Total</b>	<b>Open</b>	<b>C1</b>	<b>C2</b>	<b>C3</b>	<b>BOC</b>	<b>L</b>	<b>M</b>	<b>H</b>
2017	110	59	1	48	10	-	-	-	-
2016	259	52	1	33	18	-	-	-	-
2015	238	33	1	19	12	1	-	-	-
2014	212	44	-	33	11	-	-	-	-
2013	219	28	5	18	5	-	-	-	-
2012	229	24	8	11	5	-	-	-	-

2011	204	11	2	7	2	-	-	-	-
2010	206	9	2	6	1	-	-	-	-
2009	233	10	-	6	1	1	-	1	1
2008	276	10	-	-	-	-	3	7	-
2007	353	5	-	-	-	-	1	3	1
2006	280	6	-	-	-	-	2	3	1
2005	227	3	-	-	-	-	-	1	2
2004	252	1	-	-	-	-	1	-	-
2003	244	1	-	-	-	-	-	1	-
2002	247	3	-	-	-	-	-	2	1
2001	204	1	-	-	-	-	-	1	-

*Open Cases*           **300**  
*(inc Backlog)*

*Previous Quarter*           **278**

Note for Table – C1, C2 and C3 are the categories agreed by the Planning Committee at its meeting on 17<sup>th</sup> February 2009 when it approved the Council’s Planning Enforcement Policy; BOC indicates that the case concerns a Breach of Condition, whilst L, M and H represent Low, Medium and High priorities respectively allocated to the pre-February 2009 cases

**Date report prepared**

25 May 2017

**APPEAL BY MR N LEESE AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR THE ERECTION OF TWO DETACHED DWELLINGS AT SMITHY COTTAGES, BAR HILL, MADELEY**

<b><u>Application Number</u></b>	<b>16/00226/FUL</b>
<b><u>Recommendation</u></b>	<b>Approval</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee 21<sup>st</sup> July 2016</b>
<b><u>Appeal Decision</u></b>	<b>Appeal allowed and planning permission granted</b>
<b><u>Date of Decision</u></b>	<b>12<sup>th</sup> May 2017</b>

The full text of the appeal decision is available to view via the following link  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/16/00226/FUL>

The Inspector found that the main issues were;

- whether the development would preserve or enhance the character or appearance of the Madeley Conservation Area;
- the effect of the development on the setting of the adjacent listed building, Ye Olde House; and
- the effect of the development on the living conditions of the occupants of the neighbouring residential properties, with regard to privacy, sunlight and outlook..

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

*Character and Appearance of the Madeley Conservation Area*

- The Conservation Area (CA) is characterised by its attractive setting around the Pool. The historic centre of Madeley is a single street that borders the Pool and the cluster of lanes and cottages around the church, a Grade I listed building, retains its original character and is described in the Madeley Conservation Area Appraisal and Management Plan (CAAMP) as a high quality environment. The CAAMP goes on to identify a number of key issues in Madeley. One such issue is the protection of the rural landscape around the village especially to the east and south.
- The site represents a significant gap in what is otherwise a well built-up frontage and as such makes a positive contribution to the CA, making a visual transition between the built-form and the nearby fields.
- It is noted that the CAAMP identifies that modern infill developments tend to be detached bungalows or individual houses and whilst they are not architecturally significant, they do not dominate or compete with the historic modest cottages. The proposed two-storey dwellings would be located to the rear of the site, well behind the building lines of Smithy Cottages and Ye Olde House. They would be to the side rather than directly behind Smithy Cottages and therefore would have their own site frontage with the road, albeit it would include a shared access with Smithy Cottages.
- The significant setback position of the dwellings from the road frontage and the trees and planting throughout the site would ensure that they are not prominent in the streetscene. Whilst the height and overall size of the dwellings would be greater than that of Smithy Cottages and Smithy House, enhanced by the difference in ground levels, given their separation from the road they would not detract from the contribution these properties have on the significance of the streetscene and the CA as a whole. Whilst there would be public views of them throughout the CA, including from the nearby Grade I listed church to the north east, these would be only glimpsed views of them behind the more prominent neighbouring properties and existing vegetation. Such limited additional views of the properties from Bar Hill would not have any significant adverse effect on the streetscene.

- The rear of the site is well screened from public views, particularly from the road frontage. Therefore, its contribution to the significance of the CA is limited. As the development would be to the rear of the site, the visual gap between Smithy Cottages and Ye Olde House and the positive contribution it has on the openness of the area would be retained.
- The development of large plots in such sensitive locations can adversely affect the character of an area. However, in this instance, the two plots would be similar in size to others in the locality. Furthermore, the space between the dwellings and the neighbouring plots is also similar to the relationship other dwellings in the locality have with each other, in particularly those to the west, and would not represent overdevelopment of the site.
- The Inspector found therefore that the proposed development would have a neutral effect on, and therefore preserve the character and appearance of the CA.

#### *Setting of Ye Olde House*

- The proposal would be located in the vicinity of Ye Olde House and Bridge Cottage, a Grade II listed building. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting. This is also reflected in paragraph 132 of the Framework.
- The listed building is the oldest residential property in the village. The property was extensively remodelled in the 17th Century and has had a number of additions and alterations.
- As a result of trees, the separation distance between the properties and in part the detached garage, there would be limited intervisibility between Ye Olde House and the two dwellings. Whilst the dwellings would be located close to the boundary, the retained openness of the front section of the site and the extensive garden area to the rear of Ye Olde House would ensure that the spacious setting of the listed building is not over-dominated.
- The Inspector found therefore that the development would preserve the setting of the neighbouring listed building.

#### *Living Conditions*

- The dwellings would be close to the boundaries with the neighbouring properties Smithy House and Ye Olde House. Given the orientation of the dwellings and the window positioning, with the majority of the windows facing north or south, there would not be any significantly harmful overlooking of these properties. Whilst views of the neighbouring gardens could be possible from these windows, such views would be at such an oblique angle that it would not adversely affect the privacy of these gardens. There would be windows on the side elevations however, the Inspector was satisfied that an appropriately worded condition would ensure that these windows are obscure glazed, negating any potential overlooking from them.
- With regard to outlook, the dwellings would be within proximity of the neighbouring gardens. The eastern element of Plot 2 has a lower ridge height than the main element resulting in it being one and a half storey in height. The gable would rise above the boundary, which would be further enhanced by the difference in ground levels between the properties. As a result it would clearly be visible when viewed from the rear garden of Smithy House. However, given the size of the garden, it was not considered that it would have such a significantly harmful overbearing effect that it would materially harm its usability. For the same reason, the Inspector did not find that it would have any significantly harmful effect on the rear garden of Ye Olde House. Furthermore, given the height of the proposed garage and its position in relation to Smithy House and Smithy Cottages, it would not have any significantly harmful overbearing effect.
- Whilst it would also have a shadowing effect on the garden of Smithy House, particularly during late afternoon, given its size, sufficient sunlight would serve the majority of the garden throughout the remainder of the day.

- The Inspector was satisfied that there would be adequate separation distances between the proposed dwellings and Smithy Cottages to ensure that there would not be any adverse overlooking of the amenity space associated with Smithy Cottages.
- The Inspector also had regard to the effect of the development on the living conditions of the occupants of Bridge Cottage, however, given the distance between the properties and the positioning of the dwellings to the north east of Bridge Cottage, did not consider that there would be any significant loss of light into the conservatory.
- It was found therefore that the proposal would not significantly harm the living conditions of the occupants of the neighbouring residential properties, with regard to privacy, sunlight and outlook.

**Recommendation**

**That the decision be noted.**

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**APPEAL BY LONDON & EDINBURGH PENSION SCHEME LLP AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR THE ERECTION OF THREE DWELLINGS AT OFFLEY ARMS HOTEL, POOLSIDE, MADELEY**

<b><u>Application Number</u></b>	<b>16/00594/FUL</b>
<b><u>Recommendation</u></b>	<b>Approval</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee 10<sup>th</sup> November 2016</b>
<b><u>Appeal Decision</u></b>	<b>Appeal allowed and planning permission granted</b>
<b><u>Costs Decision</u></b>	<b>Application for a full award of costs against the Council - allowed</b>
<b><u>Date of Appeal and Costs Decisions</u></b>	<b>7<sup>th</sup> June 2017</b>

## **The appeal decision**

The full text of the appeal decision is available to view via the following link  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/16/00594/FUL>

The Inspector concluded that the main issue in this case is the effect on highway safety, having particular regard to the vehicular access and the efficient operation of the highway network in the vicinity of the site.

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

### *Highway Safety*

- The Offley Arms is located within Madeley, relatively close to the village centre and within walking distance of a large proportion of its residential community. Furthermore, there are public transport links close by which provide connections to the nearby towns and settlements. Overall, it was concluded that the site lies in a sustainable location.
- Saved Policy T16 of the Newcastle-Under-Lyme Local Plan, (Local Plan) 2003 advises that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on street parking or traffic problem. The Local Plan however predates the National Planning Policy Framework (the Framework) which makes it clear that local planning authorities should only impose local parking standards for residential and non-residential development where there is clear and compelling justification that it is necessary to manage their local road network.
- Poolside is a classified road and in the vicinity of the site on-street parking is unrestricted. However, the appeal site does not lie within a dense residential or commercial area where there is a high competition for on-street parking.
- The maximum level of car parking required for The Offley Arms Hotel, based on levels specified in the Local Plan, would be 30 spaces. The existing car park provides 35 spaces, and as a consequence of the appeal proposal the number of spaces would be reduced to 24 which would not be significantly below the maximum requirement. Furthermore, in support of the application a car parking survey was undertaken to show the extent to which the existing car park is used. Over the two week period in which it was surveyed the maximum number of cars on the car park at any one time was nine. The Council do not appear to dispute the results of this study or its methodology, and the Inspector noted that the Highway Authority also did not raise any objections to the proposal. Moreover, no substantive evidence was provided to illustrate that there is a particular issue with on-street parking in the

vicinity of the site, or to demonstrate that on-street parking causes congestion in the area.

- The car parking survey undertaken by a neighbour over a weekend period has been considered and although on one of those days 31 spaces in the car park were utilised, on the remaining days less than 24 spaces were in use. The Inspector was not persuaded that the 24 spaces that would be retained for the public house and restaurant would not be sufficient to meet the needs of its customers. Even if the proposal did result in increased competition for on-street parking she was not persuaded that this could not be accommodated on Poolside. Whilst third party evidence suggests that private accesses have been obstructed in the past, this is likely to have been caused by inappropriate parking. Moreover, she was not persuaded that the existing level of, or an increased demand for on-street parking is, or would be, detrimental to highway safety or the safety of pedestrians.
- Having regard to the paragraph 39 of the Framework, the sustainable location of the appeal site and the characteristics of Poolside the Inspector concluded that in this case it is appropriate to apply flexibility to the Council's Local Plan car parking standards.
- The appeal proposal would not alter the existing vehicular access arrangement which would continue to serve the car park and the proposed dwellings.
- The Inspector was not provided with any evidence that would suggest that the existing access is unsafe for use by vehicles or pedestrians and was satisfied that the additional vehicles movements associated with the proposed dwellings would not prevent it from continuing to operate as a safe and suitable access to the site.
- The appeal proposals would not have a harmful effect on highway safety, having particular regard to the vehicular access and the efficient operation of the highway network in the vicinity of the site. The Inspector found no conflict with the development plan, in particular in respect of Policy T16 of the Local Plan which seeks to ensure that new development, amongst other things, would not create or aggravate a local on street parking or traffic problem. She also found no conflict with the Framework which seeks to ensure that new development provides a safe and suitable access to the site for all people.

### **The Costs Decision**

In allowing a full award of costs against the Council, the Inspector made the following comments:

- Planning Practice Guidance advises that irrespective of the outcome of the appeal, costs may 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 appellant submits that the Council has acted unreasonably in refusing the application against the advice of its professional officers and consultees without good reason. Taking into account the development plan, national planning policy and the sustainable location of the site the development should have clearly been permitted.
- Paragraph 049 of Planning Practice Guidance (PPG) advises that Local Planning Authority's may be at risk of a substantive award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example by vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. It further advises that they are at risk of an award of costs if they fail to substantiate each reason for refusal on appeal.
- In this case the Inspector noted the recommendation of the Council's Officer and considered it to be significant that the Council refused planning permission against the Officer's advice and the lack of objection from the Highway Authority. Whilst planning authorities are not bound to accept the recommendations of their officers, if such advice is not followed the Council will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so they are at risk of an award of costs.

- Although the Council defended their decision in their statement and submitted third party objections, they have not produced any realistic or specific evidence to support their reason for refusal. They have not provided any evidence to counter the evidence and arguments put forward by the appellant or the Highway Authority's advice. Instead the Council have relied on the maximum standards set out in Policy T16 and imposed them without taking account of the flexibility embedded in them and more recent advice in the Framework.
- Given the lack of evidence, the Inspector concluded that the Council's case was vague, based on inaccurate assertions about the impact of the proposed development, and not supported by any objective analysis. Therefore, having had regard to the provisions of the development plan, national planning policy and other material considerations the development should have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to basic guidance in the National Planning Policy Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.
- The Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, had been demonstrated and that a full award of costs is justified.

#### **Your Officer's comments**

It is clear from the appeal and costs decisions that the Inspector found that there was a lack of evidence and objective analysis to support the decision of the LPA to refuse the application contrary to the advice of the Highway Authority and its own officers whilst the appellant did provide evidence and argument. With no evidence to substantiate the decision, it was concluded that the Council had acted unreasonably.

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**Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund - St Mary and All Saints, Whitmore (Ref: 17/18001/HBG)**

**RECOMMENDATION:**

**That the following grant is approved :-**

**£531 for repairs to stonework on the tower, gutter cleaning and repairs at St Mary and All Saints Church, Whitmore, subject to the appropriate standard conditions**

**Purpose of report**

To enable members to consider this application for financial assistance.

Whitmore Parish Church is a largely 12<sup>th</sup> century church with 17<sup>th</sup> and 19<sup>th</sup> century alterations. It is listed Grade II\*. The plinth and nave are in stone and it is also partially timber framed with a tiled roof.

The quinquennial report recently undertaken has highlighted a number of items which the Church want to deal with relatively urgently, namely blocked and leaking gutters and repairs and repointing to the tower.

The total cost of the works from the lowest quotation is estimated at £2,658.32 excluding VAT. The Church is able to claim the VAT back. The works, including gutter cleaning, are eligible for grant up to 20% of the total cost because the building is a Listed Building which means that the grant offer is £531.

The Conservation Officer wants to ensure that any repointing will be undertaken in an appropriate lime mortar mix and a specific condition will be added to any grant offer if the Planning Committee is minded to approve this grant.

The views of the Conservation Advisory Working Party will be reported to the Planning Committee.

**Financial Implications**

There is sufficient funding to meet this grant application with £27,600 in the Fund allowing for commitments.

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