

# Public Document Pack

**Date of meeting** Tuesday, 12th September, 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 MEETING(S)** (Pages 3 - 10)  
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - SITE OF FORMER NEWCASTLE BAPTIST CHURCH, LONDON ROAD, NEWCASTLE. GAVIN DONLON. 17/00162/FUL** (Pages 11 - 18)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - LAND SOUTH OF MARKET DRAYTON ROAD, LOGGERHEADS. NEWCASTLE-UNDER-LYME BOROUGH COUNCIL. 17/00067/DEEM4** (Pages 19 - 34)
- 6 **APPLICATION FOR MINOR DEVELOPMENT - 8 BARFORD ROAD, NEWCASTLE. MR A MOSS. 17/00483/FUL** (Pages 35 - 46)
- 7 **APPLICATION FOR MINOR DEVELOPMENT. 114 MOW COP ROAD, MOW COP. MR & MRS SPENCER. 17/00564/FUL** (Pages 47 - 54)
- 8 **APPLICATION FOR MINOR DEVELOPMENT - OLD SPRINGS FARM. STONEYFORD, MARKET DRAYTON. HLW FARMS. 15/01074/FUL** (Pages 55 - 60)

- 9 APPLICATION FOR MINOR DEVELOPMENT - 10A BROWN LEES ROAD, HARRISEAHEAD. STEVE WILCOCK. 17/00474/FUL (Pages 61 - 66)
- 10 APPLICATION FOR MINOR DEVELOPMENT - WALL FARM, 99 NANTWICH ROAD, AUDLEY. NIGEL HOLLAND. 17/00573/FUL (Pages 67 - 74)
- 11 APPLICATION FOR OTHER DEVELOPMENT - 60 CLOUGH HALL ROAD, KIDSGROVE. MR P SPENDER. 17/00579/FUL (Pages 75 - 80)
- 12 QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO (Pages 81 - 86)
- 13 LIST OF LOCAL VALIDATION REQUIREMENTS (Pages 87 - 94)
- 14 URGENT BUSINESS

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, Holland, 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.

**NOTE:** THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY FOLLOWING THE FIRE EXIT SIGNS. PLEASE **DO NOT** USE THE LIFTS.

**COUNCIL CHAMBER:** FIRE EXITS ARE AT THE REAR OF THE CHAMBER AT BOTH SIDES AND THIS IS THE SAME FOR OCCUPANTS OF THE PUBLIC GALLERY.

**COMMITTEE ROOMS:** EXIT VIA THE WAY YOU ARRIVED AT THE MEETING OR AT THE FAR END OF THE COUNCIL CHAMBER.

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**PLANNING COMMITTEE**

Tuesday, 15th August, 2017  
Time of Commencement: 6.30 pm

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

Councillors Burgess, Dymond, Fear, Heesom, Northcott, Panter, Reddish, Simpson, Spence, Sweeney, S Tagg, G White, G Williams, J Williams and Wright

Officers Nesta Barker - Head of Environmental Health Services, Guy Benson, Nick Bromley, Geoff Durham, Rachel Killeen and Peter Stepien

Apologies Councillor(s) S Hambleton

**1. APOLOGIES**

Apologies were received from Councillor Sandra Hambleton. The Committee sent their best wishes to Sandra and her family.

**2. DECLARATIONS OF INTEREST**

Councillors' Northcott and Reddish declared an interest in application 16/01101/FUL. Councillors' Northcott and Reddish were known to the three landowners and the owner of the farm respectively.

**3. MINUTES OF PREVIOUS MEETING**

**Resolved:** That the minutes of the meeting held on 18 July, 2017 be agreed as a correct record.

**4. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF MEADOW WAY, BALDWINS GATE. BELLWAY HOMES (WEST MIDLANDS). 16/01101/FUL**

*Proposed by Councillor Tagg and seconded by Councillor Northcott.*

**Resolved:** That the application be refused for the following reasons:

The proposed development would have both direct and indirect impacts on the irreplaceable Chorlton Moss Local Wildlife Site (LWS). The location of the balancing pond in the Moss would result in the loss of part of the LWS and the development would have an adverse impact on the potential future restoration of the habitat to active bog. The development would be contrary to saved Newcastle Local Plan policy N3, policy CSP4 of the Core Spatial Strategy and the National Planning Policy Framework's (NPPF's) paragraph 118 and the NPPF's aims and objectives.

The adverse impact of the development upon the Chorlton Moss LWS significantly and demonstrably outweighs any benefits of the development when assessed against the policies of the NPPF taken as a whole and the development is therefore unsustainable

**5. APPLICATION FOR MAJOR DEVELOPMENT - NEWCASTLE BAPTIST CHURCH. GAVIN DONLON. 17/00162/FUL**

**Resolved:** That the decision on the application be deferred until the next meeting to enable receipt of the required revised plans and a financial viability appraisal to be undertaken

**6. APPLICATION FOR MAJOR DEVELOPMENT - FORMER BRISTOL STREET FORD GARAGE, LONDON ROAD, NEWCASTLE. ADOBE RESIDENCIES. 16/01106/FUL**

**Resolved:** 1. That, subject to

A) the applicant entering into section 106 obligations where appropriate by agreement by 31<sup>st</sup> August – or, if they are willing to similarly extend the statutory period, by 30<sup>th</sup> September - that secure a financial contribution of £1,199,396 towards public open space and public realm improvement (including to the subways to Grosvenor roundabout); the agreement and implementation of a landscaping scheme involving tree thinning and landscape works, including paths, to the Lyme Valley Parkway boundary immediately adjacent to the site; and sums relating to highways and transportation matters of:- £2,245 or such sum as is appropriate, towards Travel Plan monitoring; £50,000 for residential street parking surveys and implementation of car parking zones if deemed appropriate; £10,000 for Real Time Passenger Information displays (and maintenance) at the bus stops on London Road; £5,000 for bus shelter upgrades; and £25,300 towards local cycle network improvements from Newcastle Town Centre to Keele University and the provision of introductory bus passes, and

B) subject to any required notification under the Town and Country Planning (Consultation) (England) Direction 2009 being undertaken first,

The application be approved subject to the undermentioned conditions:

- (i) Time Limit for commencement.
- (ii) Plans.
- (iii) Prior approval of all external facing materials including doors and fenestration and exterior parking and pedestrian hard surfaces.
- (iv) Precise window detailing showing indentation and extrusion.
- (v) Implementation of submitted landscaping scheme and

detailed landscaping scheme approval for Lyme Valley Parkway which is to include large tree specimen standards to give immediate impact.

- (vi) Revised boundary treatments (wood fencing being considered inappropriate).
- (vii) Refuse and storage collection arrangements including revised bin storage position for Block 1.
- (viii) The occupation of the development shall be restricted to full time students only.
- (ix) Highways matters:-
  - a. Full signal control details approval and implementation.
  - b. Off-site highways works for:-
    - pedestrian improvements to Lyme Valley Road.
    - improvements to the existing pedestrian refuge on Brook Lane to accommodate the Lymebrook cycle path.
    - access, parking, servicing and turning.
  - c. Surfacing, delineation of bays and means of surface water drainage for internal road and parking areas.
  - d. Car park management scheme approval and implementation.
  - e. Implementation of the Traffic Regulation Order on London Road.
  - f. Temporary parking scheme for 64-116 London Road approval and implementation pre commencement.
  - g. Secure weather proof parking for 253 cycle spaces approval and implementation.
  - h. Full implementation of the submitted Travel Plan.
  - i. Prior approval and implementation of a Construction Method Statement.
  - j. The approval and implementation of a traffic management scheme/residents parking zone for Hatrell Street and Stubbs Gate prior to first occupation.
- (x) Approval and implementation of a Construction Management Plan.
- (xi) Ventilation provision for habitable spaces.
- (xii) Hours of construction.
- (xiii) Cladding cleaning arrangements
- (xiv) Noise survey mitigation measures.
- (xv) Prior approval and implementation of detailed drainage strategy/scheme.
- (xvi) Land contamination treatment.
- (xvii) Approval and implementation of a site drainage strategy/scheme.
- (xviii) Detailed external lighting scheme.
- (xix) Any further conditions considered appropriate in the light of the comments from Environmental Health recently received.

2) Should the above obligations not be secured within the above period, the Head of Planning given delegated authority to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on open space provision and/or highway safety/adequate sustainable transport

provision interests; unless he considers it appropriate to extend the period for completion of the obligations.

**7. APPLICATION FOR MAJOR DEVELOPMENT - THE HOMESTEAD, MAY PLACE, NEWCASTLE. WILMOT PARTNERSHIP HOMES LTD. 17/00310/FUL**

**Resolved:** That the application permitted subject to the conditions attached to Planning Permission 14/00476/FUL as remain applicable and a newly worded condition agreeing the alterations from glass balustrading to metal railings in line with the application.

**8. APPLICATION FOR MAJOR DEVELOPMENT - SITE OF FORMER EX-SERVICEMEN'S CLUB, HEATHCOTE STREET, CHESTERTON. ASH GREEN HOLDINGS LTD. 17/00417/FUL**

**Resolved:** 1. That subject to the applicant first entering into a Section 106 agreement by 4<sup>th</sup> September 2017 to secure a review mechanism of the scheme's ability to make a policy compliant financial contribution of £33,244 (index linked) towards the provision of education places and the discounted financial contribution of £23,202 (index linked) to public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such contributions if found financially viable with preference being given to the making of a policy compliant contribution to the provision of education places first followed by the above contribution to public open space,

the application be approved subject to the undermentioned conditions:

- (i) Standard Time limit for commencement of development
- (ii) Approved Plans
- (iii) Materials
- (iv) Boundary treatments, including acoustic fence
- (v) Landscaping Plan
- (vi) Tree Protection measures
- (vii) Submission and approval of noise report. Mitigation measures
- (viii) Design Measures to Secure Noise Levels
- (ix) Construction hours
- (x) Contaminated land treatment
- (xi) Visibility splays
- (xii) Surfacing and drainage details
- (xiii) The access and access road being completed prior to occupation
- (xiv) The existing access permanently closed and footway reinstated
- (xv) The submission and approval of a swept path drawing.

2. Should the matters referred to above not be secured within the above period, the Head of Planning given delegated authority to refuse the application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstances, and, in such circumstances, the potential financial contributions towards education places and public open space; or if he considers it appropriate to extend the time period within which the obligation referred to above can be secured.

**9. APPLICATION FOR MINOR DEVELOPMENT - HAZELEY PADDOCKS, KEELE ROAD, MADELEY HEATH. MS S THORLEY. 17/00434/FUL**

**Resolved;**

That the application be permitted subject to the undermentioned conditions:

- (i) Commencement of development within 3 years
- (ii) Development in accordance with the submitted plans
- (iii) External Materials
- (iv) Submission and approval of manege surfacing
- (v) Non-commercial use only
- (vi) Prior approval of means of storing and disposing of stable wastes
- (vii) Only one trailer/ horse box kept on site
- (viii) No jumps or similar features/ structures
- (ix) No external lighting unless agreed prior to installation Visibility Splays shown on revised drawing and kept free from obstruction
- (x) Access, parking and turning areas provided prior to occupation
- (xi) Prior approval for proposals for the treatment of the roadside hedgerow and a soft landscaping scheme
- (xii) Erection of bat and bird boxes

**10. APPLICATION FOR MINOR DEVELOPMENT- 8 BARFORD ROAD, NEWCASTLE. MR A MOSS. 17/00483/FUL**

**Resolved:**

That the decision on the application be deferred to enable a site visit to take place.

**11. APPLICATION FOR OTHER DEVELOPMENT - LAND BETWEEN 33 AND 48 HIGH STREET, NEWCHAPEL. TELEFONICA LTD AND CTIL. 17/00548/TDET**

Members were advised that this application had been withdrawn prior to the meeting.

**12. FIVE YEAR HOUSING LAND SUPPLY STATEMENT FOR THE BOROUGH OF NEWCASTLE-UNDER-LYME FROM 1 APRIL 2017 TO 31 MARCH, 2022**

**Resolved:**

- (i) That the content of the five year supply statement be noted.
- (ii) That the significance of the five year supply position in Development Management decision be noted.

**13. DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2016/17**

- Resolved:**
- (i) That the report be received
  - (ii) That the Head of the Planning and Development with the Development Management Team Manager seek to maintain performance of the Development Management team where satisfactory and improve the service provided where the level of performance may otherwise fall below targets adopted in the 2017/18 Planning and Development Service Plan
  - (iii) That the 'Mid-Year Development Management Performance Report 2017/18' be submitted to the Committee around October 2017 reporting on performance achieved for the first half of 2017/18 in relation to these targets, including the 7 indicators considered in the report.

**14. ANNUAL REPORT ON PLANNING AND RELATED APPEALS**

- Resolved:**
- (i) That the report be noted
  - (ii) That internal management procedures within the Service including the assessment of case officers' recommendations by more senior officers continue to be applied;
  - (iii) That, as previously resolved, Members of the Committee, and their substitutes, draw to Case Officers' attention any concerns that they have with an application, coming to the Committee for determination, as soon as possible having received notice of the application in the weekly list, so that potential solutions to the concerns are sought with the applicant in line with the requirements of the National Planning Policy Framework;
  - (iv) That, as previously resolved, full advantage be taken of the use of conditions in planning permissions to make developments acceptable;
  - (v) That, as previously resolved, Members of the Committee, and their substitutes, who are disposed to move refusal of a proposal contrary to recommendation be urged to contact the Head of Planning no less than 24 hours before the Committee, with details of the reasons they are minded to give for such a refusal;
  - (vi) That, as previously resolved, when a proposal to refuse to grant planning permission is made at the Committee contrary to the officer's recommendation, advice be sought as to the most appropriate way to meet the



requirement to work in a proactive and positive manner with applicants;

(vii) That, as previously resolved, the mover and seconder of a resolution of refusal contrary to officer recommendation be identified by the Chair and recorded in the Minutes and in the event of an appeal being lodged there be an expectation that those members will make themselves available as witnesses on behalf of the Council in the appeal proceedings should either the Head of Planning or the Head of Business Improvement, Central Services and Partnerships or their representatives deem that appropriate; and

(viii) That, as previously resolved a proactive approach be taken by officers to appeal handling with early holding of case conferences where appropriate, the strength of the case being continually reassessed in the light of any new evidence received, and that in the case of matters being determined by means of public inquiries the solicitor dealing with the Inquiry takes charge of the matter.

**15. REVIEW OF THE LIST OF LOCAL VALIDATION REQUIREMENTS**

**Resolved:**

- (i) That the Committee agrees to approve the revised list of Local Validation Requirements as set out in Appendix B to this Report for public consultation purposes
- (ii) That the Committee agree to receive a further report setting out recommendations on the outcome of the consultation before adoption of the revised list of Local Validation requirements is considered.

**16. APPEAL DECISION - 57 BERESFORD CRESCENT, NEWCASTLE. 17/00020/FUL**

**Resolved:** That the decision be noted.

**17. APPEAL DECISION - 5 HIGH STREET, ROOKERY. 16/00738/OUT**

**Resolved:** That the decision be noted.

**18. TREE PRESERVATION ORDER- PARKHOUSE INTERCHANGE, PARKHOUSE ROAD WEST, CHESTERTON. TPO 181**

**Resolved:** That Tree Preservation Order No.181 (2017) Land at Parkhouse interchange be confirmed as modified protecting 42 trees and that the owners of the site be informed accordingly.

**19. TREE PRESERVATION ORDER - WOODLAND OFF JAMAGE ROAD TO THE SOUTH OF ARBOUR FARM, TALKE. TPO 183**

**Resolved:** That Tree Preservation Order No 183 (2017) Woodland

off Jamage Road, to the South of Arbour Farm, Talke, be confirmed as made and that the owners of the site be informed accordingly

**20. URGENT BUSINESS**

There was no Urgent Business.

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

Meeting concluded at 9.20 pm

**SITE OF FORMER NEWCASTLE BAPTIST CHURCH, LONDON ROAD, NEWCASTLE  
G DONLON**

**17/00162/FUL**

The Application is for full planning permission to vary condition 2 of permission 14/00477/FUL, which lists approved drawings, to allow for the enclosure of open air corridors indicated within the approved scheme and subsequent changes to the affected elevations, the car parking layout, areas available for landscaping within the development and other various design changes.

The site was previously occupied by the Newcastle Baptist Church which has been demolished.

The site lies within the Urban area of Newcastle as designated on the Local Development Framework Proposals Map.

A decision on this application was deferred at the meeting on the 15<sup>th</sup> August to enable the required revised plans to be received and an independent financial viability appraisal to be undertaken

**The 13 week period for this application expired on 30<sup>th</sup> May 2017. The applicant agreed to extend the statutory period to the 22<sup>nd</sup> August.**

## **RECOMMENDATION**

### **Subject to**

- a) **the receipt of satisfactory revised plans of the front elevations being received; and**
- b) **your Officer having delegated authority to determine, on the basis of a new financial assessment by the DVS, that the development still cannot finance all or part of any policy compliant contributions to offsite affordable housing provision and public open space; and**
- c) **the applicant entering into a Section 106 obligation by agreement by 30<sup>th</sup> October, to provide such policy compliant contributions as can be afforded and requiring in the event of substantial commencement of the development (as defined in the previously entered into Section 106 agreement) not being achieved within 18 months of the date of the permission, a financial reappraisal of the scheme to assess its ability at that time to fund full policy compliant contributions to offsite affordable housing provision and public open space, and the making of such contributions as are financially viable**

### **PERMIT subject to conditions relating to**

- 1. The variation of condition 2 to reflect the revised drawings**
- 2. A requirement to provide for approval and implementation a car parking management scheme, and**
- 3. Any other conditions of 14/00477/FUL as continue to apply to the development**

**B. Failing completion by the above date of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstances, and, in such circumstances, the potential financial contributions towards affordable housing provision and public open space; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

## **Reason for Recommendation**

The revisions sought to the approved plans are generally acceptable, although there are concerns about the treatment of the two front elevations and it is expected by the date of the committee that satisfactory revised plans will have been received. The reduction in the number of car parking spaces to be provided is only slight and is unlikely to give rise to severe highway safety impacts bearing in

mind that occupiers of the flats will, in this location, have a choice of modes of travel in this location. The Committee have accepted in 2015 that a very similar development could not support any policy compliant contributions to public open space and offsite affordable housing, and accordingly delegated authority to determine on the basis of the findings of a new District Valuer financial appraisal what contributions can now be made is sought. That financial appraisal is not expected to be received by the time of the Committee.

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

There was a delay in progressing this application but officers have now confirmed their views on the substantive issue – the financial reappraisal – to the applicant.

### **Key issues**

The Application is for full planning permission to vary condition 2 of permission 14/00477/FUL, which lists approved drawings, to allow for the enclosure of open air corridors indicated within the approved scheme and subsequent changes to the elevations, the car parking layout and areas available for landscaping within the development.

In considering an application to vary a condition, the authority has to consider only the question of the conditions subject to which planning permission may be granted. If the Authority considers that planning permission may be granted subject to different conditions it can do so. If the Authority considers that the conditions should not be varied it should refuse the application. The condition which the applicant is seeking to vary is that which lists the approved drawings. No changes are being sought to the number of the units within the development. The changes sought are to the design of the development. The principle of the development is not therefore for reconsideration.

The approved development is a 22 unit apartment scheme, occupying a corner site, with a L shaped footprint around a two sided courtyard with some 22 car parking spaces indicated

In terms of the building itself, the approved scheme, envisaged a deck at first floor level incorporating a landscaped amenity space projecting out from the building at its internal corner, over some of the car parking – in order to provide some landscaped space for the residents of the flats. Access to flats at first, second, third and fourth level was to be obtained along open balustraded deck access corridors with feature framing up the elevations in question, up to the third floor.

In the revised scheme, here being considered, these open corridors have now become fully enclosed with the end units on the first, second and third floor becoming larger as a result. An external opensided 3 storey high fire escape stair is added to one of the elevations.

The above changes are all to the internal courtyard elevation, non-public elevation. The framing features that were part of the original scheme remains – helping provide vertical emphasis, although the removal of the deck access arrangement makes for simpler flatter, and frankly less interesting elevations than were previously proposed with less recessing and shadow effect. However it does have to be recognised that these are internal courtyard elevations of which there will be limited public view.

Turning to the London Road (south west) and Vessey Terrace (south east) elevations, the changes are more limited, the primary components remaining unaltered, but a positive feature, the full height apertures to each unit that previously helped give a vertical emphasis have been reduced somewhat in height and the proportion of solid wall to aperture increased. Your officer is seeking an amendment to the scheme in this respect and also a reinstatement of the depth of projection of the flat roof capping – to ensure that the development does not appear box like – these were all important positive features of the original scheme. The indications received are that the required amendments will be received before the Committee meeting.

Whilst the revised scheme has deleted the raised landscaped deck that had been proposed over part of the parking area, the new scheme takes a more conventional approach and provides a reasonable sized ground level landscaped area at the northern end of the car park. This will help improve the

ambience of the internal courtyard, by forming an attractive feature viewable upon entering the courtyard upon which some reasonably sized trees could be established, and it is quite a bit larger as well than the previous decked area (which did introduce challenges for the area below), and there will be other opportunities for landscaping within the courtyard as well.

The only downside of the rearrangement is the consequential reduction in the amount of parking. Previously the scheme had 22 spaces - one parking space per unit. That number has now been reduced to 18. Members will wish to note that on the one hand national policy does indicate that highway safety impacts have to be severe to justify refusal, whilst Ministers have also signalled a wish that developments do provide sufficient parking. As members will be aware both this section of London Road and some way up Vessey Terrace are double yellow lined already. Account needs to be taken of the edge of centre location of this development. There are opportunities here to use modes of travel other than the private motor car - the site being within easy walking distance of the town centre, on a main bus route, and close to the bus station. That the Highway Authority do not object to this relatively slight reduction in onsite parking provision is also important. It is not considered that refusal on grounds of insufficient parking could be sustained here.

In law the consequence of the granting of an application to vary a condition of a planning permission would be the creation entirely new planning permission rather than an amendment of the existing one (14/00477/FUL in this case). That previous permission was granted on the 26<sup>th</sup> October 2015 following the completion of a Section 106 agreement which included a requirement for a financial reappraisal should the development not be substantially commenced within 18 months of the date of the planning permission (ie by 25<sup>th</sup> April 2017), and the payment of such policy compliant contributions as could be afforded towards public open space and offsite affordable housing provision.

It is believed to be the applicant's position that the financial viability position remains largely unchanged from that which was established by their advisers and subsequently confirmed by the District Valuer in early 2015. The floorspace and thus the Gross Development Value and costs of the development will be different but it seems to your Officer that the changes consequent to the changed the design are likely to be fairly limited and ones which if applied to the calculations of the District Valuer would be unlikely to make material difference to his conclusions. However it is possible that other assumptions within the financial appraisal may have changed since January 2015.

The question the LPA needs to consider is whether it ought, given the passage of time, to now require a further appraisal by the District Valuer before determining this application (the application has been with the authority for some time and the applicant is pressing for a decision on the application) or whether provided a revised Section 106 agreement is entered into simply securing upon substantial commencement - whenever that may be - a reappraisal and funding of appropriate contributions if the scheme can financially support them - that would be sufficient. The developer has made it clear that they do not wish to be in a position where there will definitely will have to be a viability reappraisal upon substantial commencement of the development being achieved. They have indicated that no funder will proceed on that basis because of the degree of uncertainty that it involves. They would rather proceed with a reappraisal at this time. They recognise that there will still need to be, as there was previously, a Section 106 agreement requiring, in the event of substantial commencement not being achieved within 18 months, a yet further appraisal and, depending upon its results, the payment of appropriate policy compliant contributions. It is however critical to them that the reappraisal, which they consider will come to the same conclusion as did the previous one, takes place now.

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 T16: Development – general parking requirements

**Other Material Considerations include:**

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Supplementary Planning Guidance/Documents

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)

Relevant Planning History

14/00477/FUL – Demolition of former Newcastle Baptist Church and erection of residential apartment development comprising 14 two bedroom units and 8 one bedroom units, formation of new access and associated car parking

Views of Consultees

The **Highway Authority** notes that the proposal reduces the number of car parking spaces within the scheme from 22 to 18, but they have no objections to this provided a car park management scheme is submitted for approval and thereafter implemented

The **Environmental Health Division** indicate that they have no objections provided the conditions they sought for the previous application continue to be applied

The **Landscape Development Section (LDS)** have no objections but they would still wish to see provision made on the north eastern boundary to act as a visual foil/screen between the development and the backs of the properties in Grosvenor Gardens

No comments have been received from the **Newcastle South Action Partnership** and given that the period for comment has expired it must be assumed that they have no comments to make.

Representations

No letters of representation have been received.

Applicant's/Agent's submission

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00162/FUL>

Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

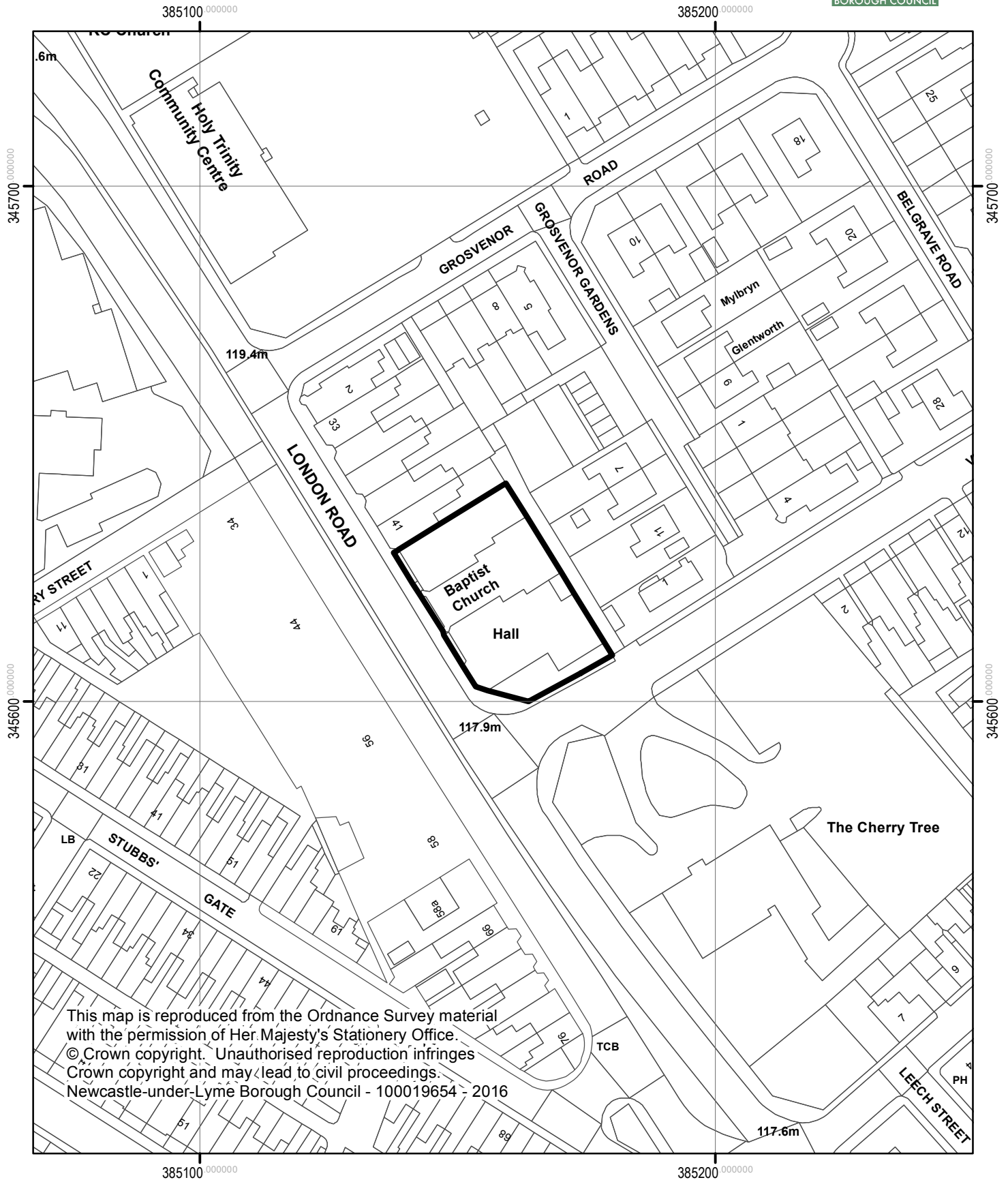
31<sup>st</sup> August 2017

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# Newcastle Baptist Church -

17/00162/FUL



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**LAND SOUTH OF MARKET DRAYTON ROAD, LOGGERHEADS  
NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**17/00067/DEEM4**

The application is for outline planning permission for the erection of up to 65 dwellings with associated open space and landscaping. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and internal access details) reserved for subsequent approval.

The application site lies outside the village envelope of Loggerheads and within the open countryside and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. The site area is approximately 3.65 hectares. The site fronts onto the A53.

**The 13 week period for the determination of this application expired on the 1<sup>st</sup> May. The applicant agreed to extend the statutory period until the 30<sup>th</sup> May.**

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## **RECOMMENDATIONS**

**A) Subject to consideration being given to the expected comments of the Highway Authority, and subject to the applicant entering into a Section 106 obligation by 12<sup>th</sup> November 2017 securing the following:**

- i. A management agreement for the long-term maintenance of the open space on the site**
- ii. A contribution of £132,976 (on the basis that the development as built is for the full 65 units and of the type indicated), towards the provision of education places at Madeley High School**
- iii. Unless an equipped play area is provided on site, a contribution of £5,579 per dwelling to improvements to the Burntwood Play Area; or on other nearby sites, that can be accessed safely and are within an appropriate walking distance, in conjunction with the Parish Council**
- iv. Provision of 25% of the dwellings on-site as affordable units**

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

- 1. Standard time limits for submission of applications for approval of reserved matters and commencement of development**
- 2. Reserved matters submissions**
- 3. Approved plans**
- 4. Development permitted is for 65 dwellings maximum**
- 5. Contaminated land**
- 6. Construction hours**
- 7. Construction management plan addressing environmental and highway safety issues**
- 8. Approval and implementation of design measures to secure appropriate internal and external noise levels**
- 9. Waste storage and collection arrangements**
- 10. Reserved matters submission to include layout specific Arboricultural Impact Assessment**
- 11. Reserved matters submission to include details, on the layout plans, of root protection areas of all trees to be retained.**
- 12. Full details of the footway along the site frontage and extending beyond the site, and footpath to Kestrel Drive, and implementation of the above**
- 13. Details of proposed boundary treatment and alignment of utility operations to ensure that retained trees are not adversely affected.**
- 14. Schedule of works to retained trees which shall include the better quality trees from the mature group identified as T39-T72 if the layout allows.**
- 15. Visibility splays**
- 16. Foul and surface water drainage scheme**
- 17. Any reserved matters application to broadly comply with the Design and Access Statement in respect of the location of the dwellings and open space.**
- 18. Approval and implementation of mitigation measures to avoid an adverse effects on Burntwood Site of Scientific Interest, as recommended by Natural England**
- 19. Recommendations of Phase 1 Habitat Survey to be complied with**
- 20. Archaeological evaluation**
- 21. Dwellings to be 2 storey with 2½ storey dwellings only at key nodes**
- 22. Any other appropriate conditions as recommended by the Highway Authority**

**B) Should the matters referred to in (i), (ii), (iii) and (iv) 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 the provision of a play area and adequately maintained public open space, appropriate provision for required education facilities and an appropriate level of affordable housing; or, if he considers it appropriate, to extend the period of time within which such obligations can be secured.**

## **Reason for Recommendation**

In the context of the Council's inability to robustly demonstrate a 5 year plus 20% supply of deliverable housing sites, it is not considered 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 do not significantly and demonstrably outweigh the key benefits of this sustainable development. Accordingly permission should be granted, provided the contributions and affordable housing indicated in the recommendation are secured. The views of the Highway Authority are however still awaited and will need to be given consideration when received

## **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. This is now considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework (NPPF).

## **Key Issues**

1.1 Outline planning permission is sought for residential development of up to 65 dwellings with associated open space and landscaping. Access from the highway network (but not the internal access within the development itself) is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval.

1.2 The application site, of approximately 3.65 hectares in extent, is within an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map, in the open countryside outside the village envelope of Loggerheads. An area of woodland and open space is to be provided within the site and as such it is not intended to build upon the site in its entirety.

1.3 The site is adjoined to the south by Burntwood ancient woodland, parts of which are designated as a Site of Special Scientific Interest.

1.4 The site comprises agricultural land but an Agricultural Land Classification Survey based upon a field survey has been submitted with the application which concludes that it is Grade 3b or moderate quality which is not 'best and most versatile agricultural land' as referred to in the NPPF.

1.5 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?
- Would there be any significant impact upon any nature conservation interests?
- Would the proposed development have a significant adverse impact on the character and appearance of the village or the wider landscape?
- Would the proposed development have any material adverse impact upon highway safety?
- 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 the principle of residential development on the site acceptable?**

2.1 The application site lies within the Rural Area of the Borough, outside of the village envelope of Loggerheads, in the open countryside. Loggerheads Parish Council are currently preparing a Neighbourhood Plan for the parish which will become part of the Development Plan and will be material to the determination of planning proposals within the Plan area. At this stage, however, the Neighbourhood Plan has not advanced to a stage where any weight can be given to it.

2.2 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 As indicated above this site is not within a village envelope nor would the proposed dwellings serve an identified local need as defined in the CSS. As such its development for residential purposes is not supported by housing policies in the Development Plan.

2.6 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).

2.7 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 latest position was reported to the Planning Committee at its last meeting and that report indicated a supply of 1.8 years' worth, in terms of the borough's housing requirements. 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.*

2.8 The site lies very close to the village envelope of Loggerheads which is identified within the CSS as being one of the three Rural Service Centres which are detailed as providing the most comprehensive provision of essential local services. The Borough's Rural Services Survey (2011), an update of that undertaken in 2008, states that Loggerheads, one of the borough's larger rural settlements, *"has a wide range of local services and is located within a very sustainable and accessible location along the A53"*. At that time it confirmed that within the village there was a post office, 2 food shops, 2 restaurants/takeaways, a school, a pub, a cash point, a library and other local amenities. The Survey went on to conclude that Loggerheads and the other settlements defined as Rural Service Centres offered the most sustainable locations for additional development to meet local needs and to support the vitality and viability of local service provision.

2.9 Loggerheads currently has a food store, a primary school, a public house, a pharmacy, a library, a cash point, a post office, a butcher, a restaurant, a takeaway, a hairdresser, a barbers, a veterinary surgery and a bus service linking the towns of Newcastle, Hanley, Market Drayton and Shrewsbury. Although this site lies just outside the village envelope, it is very close to existing facilities, and the village centre of Loggerheads, i.e. the food store, post office and library, is just 400m walking distance from the centre of the site provided that a suitable footway can be provided and the catchment primary school is also very close. The bus stops in Loggerheads currently provide an hourly daytime service on Mondays to Saturdays linking the towns of Newcastle, Hanley, Market Drayton and Shrewsbury and are located on the A53 in the vicinity of the double mini roundabouts, approximately 5 minutes walk from the site. It is the case therefore 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.

2.10 The Newcastle Rural Accessibility report (September 2015) concludes that Loggerheads experiences very mixed accessibility in terms of travel times to different services and facilities. The

settlement has good access to GP surgeries, supermarkets and primary schools but longer travel times to secondary schools, further education and a range of employment destinations.

2.11 In the Tadgedale appeal decision (March 2017), which took into account the above, the Inspector acknowledged that in terms of access to services such as bulk food and comparison goods shopping, most evening entertainment, secondary and further education and hospital visits occupiers of that proposed development would rely on trips outside Loggerheads. The Inspector also acknowledged that there is a range of food shopping available only about 8km away at Market Drayton and Newcastle town centres to and from which there are regular daytime buses. Given the limitations to the bus service and the location, it was acknowledged that accessibility to employment is likely to be primarily by car. However there is the opportunity for the use of public transport for some work and/or leisure trips and given that this is not a remote, rural location, distances to higher order settlements and facilities are relatively short.

2.12 These points undoubtedly weigh in favour of a conclusion that in terms of access to some facilities and a choice of modes 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.

2.13 The applicant's agent states that social benefits are the provision of new housing, especially the affordable housing element, and support for local shops and services. He states that economic benefits are the provision of construction jobs (which is calculated at 279 jobs using the Home Builders Federation (HBF) tool that estimates that value of wider benefits) and training (2 apprentices, graduates or trainees as calculated using the HBF tool) and additional tax revenues (£650,000 in tax revenue, including £83,590 in Council tax as calculated using the HBF tool).

2.14 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. Whilst the development could be expected, under current arrangements, to result in the payment to the Council of New Homes Bonus (NHB) – a local finance consideration (unlike Council tax revenue) to which regard must be had in planning decision as far as it is material, such materiality depends upon whether the NHB could help to make the development acceptable in planning terms which given the purposes on which NHB is spent in the Borough would not be the case. The guidance is clear – it would not be appropriate to make a planning decision based on the potential of the development to raise money for a local authority.

2.15 Such benefits as have been identified can only be given their full weight and the development can only be defined as sustainable if safe routes to the village can be secured. At present the footway from the village terminates partially along the frontage of the Fire Station adjoining the application site. The required footway will therefore need to be partially constructed on land outside of the applicant's ownership and control on land which does not form part of the highway. In addition a listed milepost is sited less than 2m from the edge of the highway and therefore would result in a substandard footway width unless it is relocated further away from the highway (requiring listed building consent) or if the required 2m wide footway goes around the milepost.

2.15 In response to this issue the applicant has approached the Fire Authority who has indicated they have no objections to the provision of such a footway on their land. In addition they have indicated that they would not object to the repositioning of the milepost onto a landscaped area more than 2m from the highway. In light of this it can be concluded that a negatively worded condition can be imposed to secure the footway.

2.16 Paragraph 14 of the NPPF states that permission should be granted unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted. The footnote to paragraph 14 gives examples of such policies and includes those policies relating to sites designated as Sites of Special Scientific Interest.

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

3.1 Burntwood comprises ancient woodland and part of it is designated as a Site of Special Scientific Interest (SSSI). As stated above, paragraph 14 of the NPPF refers to policies relating to sites designated as SSSIs and paragraph 118 states that proposed development on land within or outside a SSSI likely to have an adverse effect on a SSSI should not normally be permitted. Paragraph 118 goes on to state that planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats, including ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

3.2 Saved Local Plan Policy N3 indicates that consideration of applications for planning permission will take into account the potential effects of development proposals upon wildlife and geological features. In all cases where development or land use change is permitted, development proposals will be expected to avoid or minimise any adverse effects and, where appropriate, to seek to enhance the natural heritage of the Borough by identified measures.

3.3 Saved Local Plan Policy N8 indicates that the Council will resist development that may harm, directly or indirectly, amongst other things an ancient woodland site. Where development affecting such habitats can be approved, appropriate measures will be required to minimise damage, to provide for appropriate habitat restoration and/or re-creation to compensate for any loss, and to assist where possible towards meeting the targets for habitat and species increase set out in the Staffordshire Biodiversity Action Plan.

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

3.5 The site adjoins ancient woodland and is separated from a designated SSSI by the intervening Burntwood housing estate. Notwithstanding this, it is important to consider whether the proposed development would have any adverse impact on those designated assets. In addition, whilst not within the designated ancient woodland, woodland extends into the southern sections of the site. Consideration of the impact of the development on trees that do not form part of the designated ancient woodland is considered elsewhere in this report.

3.6 The proposed development has the potential to damage or destroy the interest features for which Burntwood SSSI due to an increase in visitors to Burntwood, which is open access land, arising from this development given it is in walking distance to the SSSI and the non-SSSI areas. Notwithstanding this Natural England has raised no objections to the proposal subject to the securing of mitigation measures.

3.7 Such measures should include the submission of details relating to the design, extent and management of open and greenspace within the development consistent with the NPPF and local policy. A residents' information pack material is required to raise awareness of the SSSI and its vulnerabilities. In addition the provision of circular walking routes from the site using Burntwood open access land that avoids passage through the SSSI areas of the wood.

3.8 It is the case that the Habitat Survey submitted with the application concludes that subject to mitigation, there would be no significant adverse impact within the site which does include areas of woodland. Subject to careful consideration of the detailed layout at the reserved matters stage and subject to the imposition of conditions requiring appropriate mitigation, it is not considered that a refusal could be sustained on the grounds of adverse impact on Burntwood ancient woodland or SSSI.

3.9. The submitted tree survey considered 81 individual trees, six groups of trees and shrubs, three woodland blocks and four hedgerows. It identified that 37 individual trees, three groups of trees and three sections of hedgerow would need to be removed to accommodate the development as indicated on the illustrative Masterplan. Of the trees and hedgerows that have been identified as requiring



removal there are 12 individually surveyed trees and three sections of hedge have been assessed as of moderate quality majority are of low quality (C Category). All trees that have been identified as being of high quality (category A) are to be retained. As such the majority of trees to be lost are those that have been assessed as low quality. Notwithstanding this, whilst additional information has been submitted to support the application the Landscape Development Section has not as yet been satisfied that 65 dwellings can be constructed on the site without further loss of trees to that identified by the applicant. It should, however, be noted that this is an outline application with all details other than the point of access being reserved for subsequent approval. Any layout of the site submitted through a reserved matters application could be designed to minimise the loss of trees and potentially retain more trees that have been shown as being retained.

3.10 In addition it would appear that part of hedgerow that would meet the criteria for 'important' would be lost to accommodate the access visibility splay. A hedgerow could be planted to the rear of the visibility splay but such a hedgerow could not 'replace' what is significant about the hedgerow to be lost.

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

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. 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*

It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality.

4.3 Paragraph 58 of the NPPF states that decisions should aim to ensure that developments optimise the potential of the site to accommodate development and respond to local character and reflect the identity of local surroundings.

4.4 Section 10.5 of the Urban Design SPD states that new development in the rural area should respond to the typical forms of buildings in the village or locality. It states that in doing so, designers should respond to the pattern of building forms that helps create the character of a settlement, for instance whether there is a consistency or variety.

4.5 The only matter for approval as part of this application is access. Therefore, layout, scale and appearance are all matters reserved for subsequent approval. An illustrative masterplan has been submitted which sets out the design principles that will inform the site layout, including establishing development blocks, frontages and articulating corners and points of interest.

4.6 Up to 65 dwellings are proposed which would equate to a density of approximately 18 dwellings per hectare if the entire site area is taken into consideration and about 33 dwellings per hectare when the areas within the site which are not to be developed are deducted. This medium density is

considered appropriate in this edge of village, semi-rural location on a site with generous areas of open space.

4.7 The development extends to the south of the A53 Market Drayton Road in a westerly direction. The extent of the land to be built upon does not extend beyond the current ribbon of residential development on the north side of Market Drayton Road. There is a mix of dwelling size and style in the area and it is considered that the number of dwellings indicated could be accommodated within the site satisfactorily and subject to details, would not have any significant adverse impact upon the character and appearance of the village. The Design and Access Statement indicates that the site would comprise a mix of detached and semi-detached dwellings and the Planning Statement indicates that the properties would be predominantly 2-storey but potentially rising up to 2½ storeys to articulate key nodes. Given the location of this site on the edge of a village, it is considered necessary to restrict the height of the dwellings to a maximum of 2½ storeys and only at key nodes. Notwithstanding the concerns expressed by the Parish Council with regard to the type of housing proposed not meeting the need that has been identified for small houses for an ageing population, in the absence of policy in this regard the proposal is acceptable and in any event the application is in outline and any development of the site may include small houses.

4.8 The main principles of the proposed design and layout of the site are outlined in the Design and Access Statement. The content of that document is considered appropriate as a basis for the reserved matters submission and therefore should planning permission be granted, a condition is recommended requiring any subsequent reserved matters applications to be in accordance with the principles of the Design and Access Statement.

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

5.1 Vehicular access to the site would be via a new access off Market Drayton Road (the A53). Details of the access have been submitted along with a Transport Statement (TS) which states that the access arrangements accord with Manual for Streets and that appropriate visibility splays having regard to surveyed vehicles speeds can be provided. It also states that the proposed development will result in 51 two-way trips in the AM peak hour and 55 two-way trips in the PM peak hour. This is under one vehicle trip per minute, which would not have a severe impact on the local highway network.

5.2 The Highway Authority (HA) are objecting to the proposal because a designer's response to the issues raised in the Stage One Road Safety Audit wasn't provided, nor are any details of how a 2m wide footway could be provided which links to the existing footway on Market Drayton Road. Further information has been submitted and the Highway Authority's response is awaited. It is anticipated that they will withdraw their objection.

5.3 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*. Given the relatively limited number of additional traffic movements that a development of up to 65 dwellings would create and noting that the Highway Authority are unlikely to have objections to the application, following consideration of the additional information, your Officer's view is that subject to the imposition of conditions the impact of the proposed development on transport grounds would not be severe and therefore an objection on such grounds could not be sustained.

6. What planning obligations are considered necessary and lawful?

6.1 The applicant has confirmed their willingness to agree to the provision of 25% affordable housing and the making of a financial contribution towards education provision. The submission indicates that there will be no provision of an equipped play area on the site and if that is to be the case a financial contribution to off-site provision is required. There is no reason not to provide both options to the developer. The Landscape Development Section has suggested that such a contribution, if received, could be spent on the existing Burntwood Play area which is 480m (radial distance) or 590m (walking distance) which is acceptable. They have further suggested that if not spent at Burntwood consideration could be given to increasing new playground facilities at the proposed development site south of Muckleston Road. This is not considered to be acceptable, given that it would be up to

1,000m and therefore too far from this development, and may also not be possible given that play area is to be provided and maintained by the developer of that site. Finally they have suggested it could be spent on other suitable nearby sites in conjunction with the Parish Council which may be acceptable if the identified play area can be accessed safely and is not too far away from this development.

6.2 The open space that is to be provided would, it is proposed, be maintained by a management company which can also be secured by a Section 106 Agreement.

6.3 Such obligations are considered to meet the tests identified in paragraph 204 of the NPPF and are compliant with Section 122 of the Community Infrastructure Levy Regulations. However, it is also necessary to consider whether the financial contributions comply with Regulation 123 of the CIL Regulations, which came into force on 5<sup>th</sup> April 2015. 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.

6.4 Staffordshire County Council has requested an education contribution towards the provision of 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. On this basis, it is considered that the contributions comply with CIL Regulation 123.

6.5 In the Planning Statement submitted with the application, it is stated that because the site is Council-owned, a Section 106 is not a legal mechanism that can be applied to this application. Your Officer has received legal advice relating to other sites owned by the Council and whilst the Borough Council cannot enter into a contract with itself (as a matter of law) a planning obligation can be entered into prior to a decision notice being issued which secures in a transparent and appropriate manner the affordable housing and education contribution. It is anticipated that the County Planning Authority would act as the Local Planning Authority for the planning obligations at least until the site has been disposed of.

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?

7.1 In consideration of the above points, subject to the securing of a footway linking the site to the village along Market Drayton Road, the proposal represents sustainable development and would make a significant contribution towards addressing the undersupply of housing in the Borough. It would also provide affordable housing for the rural area.

7.2 The proposal would, however, result in the loss of trees and part of a hedgerow which might be classified as important.

7.3 Given the scale of the development and the scale of the undersupply currently identified considerable weight can be given to the benefits. This would outweigh the weight given to the harm that has been identified even if more category B trees cannot be retained than the submission suggests. As such it is considered that the adverse impacts would not significantly and demonstrably outweigh the benefits of the proposal. Accordingly the proposal complies 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 to address infrastructure requirements 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 N12	Development and the protection of trees
Policy N17	Landscape Character – General Considerations
Policy N18	Areas of Active Landscape Conservation
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

[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](#)

[Newcastle-under-Lyme Open Space Strategy](#) – adopted March 2017

Relevant Planning History

None relevant.

Views of Consultees

The **Highway Authority** indicates that the application should be refused because the submitted application fails to provide adequate information for the Highway Authority to determine the application from a highway safety and transport perspective.

Additional information is required from the applicant as detailed below;

- A designer's response to the problems raised within the stage 1 Road Safety Audit (RSA)
- Provision of details of a footway from the site, crossing over the frontage of the Fire Station and tying into the existing footway. The milepost in the verge which is sited on the route of the footway would need to be addressed because it restricts the width and therefore the pedestrian connectivity from the site to the centre of Loggerheads.
- The proposed design of the gateway feature whether the extended 30mph speed limit will start is not acceptable because the use of coloured surfacing is not supported by the Highway Authority.

Additional information has been provided and the views of the Highway Authority have been sought.

The **Landscape Development Section**, following receipt of additional information, comment as follows:

- The impact of the proposal on retained trees is somewhat unclear and the outline masterplan doesn't provide sufficient details on the location of buildings, roads, earthworks and services in order for the impact of the proposals upon trees to be properly assessed.
- Concerns are raised about the loss of the group of mainly Oaks/conifers identified as T39-T72. This group of mature trees is particularly prominent from Market Drayton Road and makes a significant contribution to the local surroundings. Some of the trees are poor but the better quality trees should be retained.
- The retention and protection of the category A trees on the site and of the younger woodland beyond which will act as a backdrop is welcomed.
- The Hedgerow Assessment provided indicates that hedgerow H4 would meet the criteria for 'important' but historical/archaeological data appears to be missing.
- *Either* an appropriate play facility which would be managed through an agreed management programme should be installed on site *or* a developer contribution for off-site public open space should be secured. The contribution should be £4,427 per dwelling for capital development/improvement of off-site open space and in addition £1,592 per dwelling for 60% of the maintenance costs for 10 years (total £5,579 per dwelling). Such a contribution would be required for the Burntwood Play Area. Consideration may be given to increasing playground facilities at the proposed development site south of Mucklestone Road or to working with the Parish Council to allocate funds to other suitable nearby sites
- Any reserved matters application should provide the following:
  - Layout specific Arboricultural Impact Assessment (to BS5837:2012)
  - Root Protection Areas (RPA) of retained trees to be shown on the proposed layout (to BS5837:2012)
  - Details of all special engineering within the RPA and other relevant 'no dig' construction details.
  - Details of proposed boundary treatment
  - Alignment of utility operations
  - Schedule of works to retained trees
  - Full landscaping proposals including detail of hedgerow replacement behind the new visibility sightlines.

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

The **Education Authority** states that the development falls within the catchments of Hugo Meynell CE (VC) Primary School and Madeley High School. A development of 65 dwellings, excluding the 10 Registered Social Landlord dwellings from secondary only, could add 14 primary-aged pupils and 8 of secondary age and 2 Sixth Form aged pupils. A contribution of £132,976 (8 x £16,622) is requested towards Secondary provision, assuming policy compliant affordable housing is provided on site.

Hugo Meynell CE (VC) Primary School is currently projected to have sufficient space to accommodate the likely demand from pupils generated by the development and therefore no request is made towards Primary School provision.

The **Crime Prevention Design Advisor** has no objection to the construction of housing on the application site. Any subsequent reserved matters application should clearly explain and demonstrate in the site layout how crime prevention and community safety measures have been considered in the design of the proposal. Some comments made on the illustrative masterplan.

The **Lead Local Flood Authority** states that the proposed development will only be acceptable if a suitable detailed surface drainage scheme is agreed and implemented.

The **Environment Agency** makes no comment as it is not within their remit to comment on such applications.

The Staffordshire County Council **Environmental Advice Team** comment as follows:

- Bearing in mind the demonstrable archaeological potential of the area and the site, coupled with the scale of the proposed development it is advised that should permission be granted a staged archaeological evaluation be undertaken secured through a condition.
- To ensure landscape effects have been thoroughly considered and, if minded to approve the application, that adequate provision is made in the masterplan to ensure that an acceptable level of mitigation could be achieved to minimise the effects on the wider landscape.
- The attention of the developer should be drawn to the existing of Public Footpath no. 51 which runs through the site and that any planning permission does not construe the right to divert, extinguish or obstruct any part of the public path.

**Natural England** has no objection subject to appropriate mitigation being secured to ensure that the development doesn't damage or destroy features of the Burntwood Site of Special Scientific Interest including the following:

- Design, extent and management of open and greenspace within the site.
- Residents' information pack material to raise awareness regarding local open and greenspace resources and steps that residents can make to conserve them while enjoying the benefits they offer.
- Circular walking routes from the application site using Burntwood open access land that avoid passage through the SSSI areas of the wood.

**Housing Strategy** advises that the policy compliant provision of affordable housing should be secured.

**Loggerheads Parish Council** comment as follows:

- The recent Government White Paper refers to the need to plan for the right homes in the right places and that development is about far more than building homes, the right infrastructure is required.
- The Loggerheads Community Survey conducted as part of the emerging Neighbourhood Plan, quite clearly states that Loggerheads residents do not believe that there is a need for further 3 and 4 bedroom housing development within Loggerheads. The traffic data is out of date, most is at least two years old, the speed limit to the west as referred to in the submission is incorrect and the number and vehicles will have increased.
- The survey identified this site as the only suitable location, within the village envelope, for a Community Facility that would include a Medical Facility along with sports and recreation facilities.
- The Housing Needs Assessment for Loggerheads supports the need for small housing for an aging population.
- The use of rumble strips to slow traffic would not be welcomed so close to residents.
- It is not clear what the need for the pedestrian refuge is, unless it is intended to slow traffic by making it difficult to overtake. The plans show a new footpath so there would be no need for it for pedestrians. It is too close to the substandard access.

The Parish Council do not object to the right type of houses on the site, but sports, leisure and recreation facilities upgrades would need to be secured first. They do not object to an access in the approximate position shown on the submitted plans.

**Staffordshire Wildlife Trust** advises that they don't have the resources to respond.

The Council's **Waste Management Team** was consulted but as they haven't responded it is assumed that they have no comments.

### Representations

Two objections have been received raising the following concerns:

- The development will affect outstanding views from the front of properties on Market Drayton Road and the Borough Council should provide compensation for the loss of that view and the associated devaluation of property
- The access point is at a dangerous point on the A53
- Whilst there may have a housing supply shortfall, but houses should be built where there is employment nearby and there is no employment available in Loggerheads.
- There are 1800 empty properties in the Newcastle area.
- The calculations undertaken by the Education Authority as to the number of children generated by this development is questionable.
- People will not walk from the site to the village along Market Drayton Road given that it is unpleasant and unsafe given the type of traffic, including articulated lorries, that travel along that road. Consideration should be given to putting in a footpath to the rear of the Fire Station onto Kestrel Drive.
- If planning permission is granted the developer must be required to implement the woodland walk and look after the Oak trees within the site.
- The development could result in loss of privacy and light and there is insufficient detail to enable this to be assessed
- The development could result in highway safety and parking issues and there is insufficient detail to be satisfied that this won't be the case.
- The existing schools, GP practice, drainage/sewers etc. will not support the amount of additional dwellings that have been proposed in a number of applications.
- There is not enough detail to know what the buildings will look like and assess their acceptability.
- The suggestion that a children's play area should be provided close to Market Drayton Road is illogical and dangerous. The best place for such a play area would be land immediately behind and to the south of the fire station and a footpath could be constructed from Kestrel Drive.

### Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Planning Statement
- Flood Risk and Foul Drainage Assessment
- Tree Survey Report
- Arboricultural Impact Assessment
- Hedgerow Assessment
- Extended Phase 1 Habitat Survey
- Transport Assessment and Addendum
- Framework Travel Plan
- Agricultural Land Classification
- Phase 1 Environmental 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/17/00067/DEEM4>

Background papers

Planning files referred to  
Planning Documents referred to

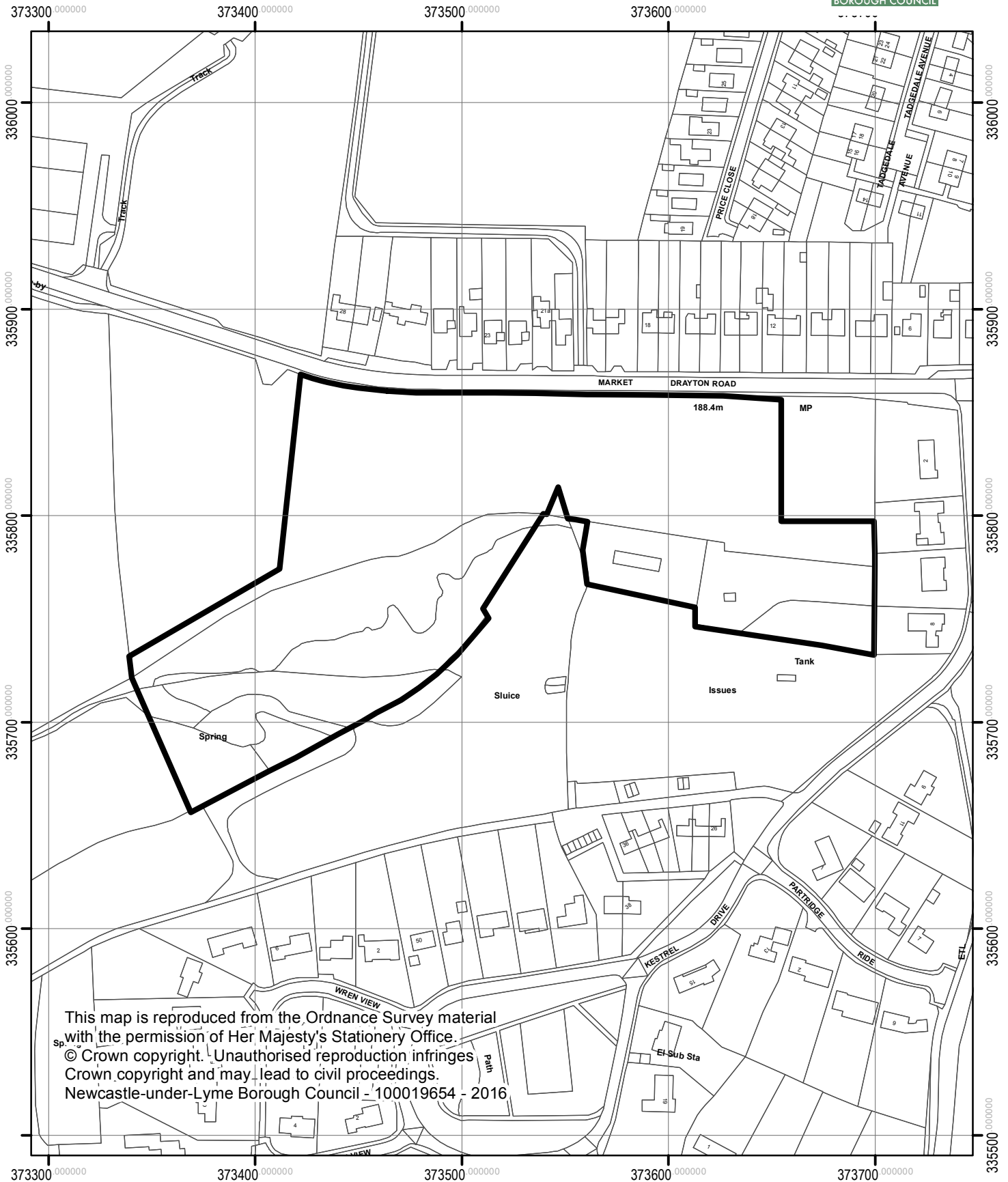
Date report prepared

28<sup>th</sup> August 2017



# Land S of Market Drayton Road, Loggerheads

17/00067/DEEM4



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**8 BARFORD ROAD, NEWCASTLE**  
**MR A MOSS**

**17/00483/FUL**

The application is for the demolition of the existing bungalow on this site and the construction of 3 detached dormer bungalows. The site measures 0.2 hectares.

The application site is presently garden land which lies within the Urban Neighbourhood Area of Newcastle as specified on the Local Development Framework Proposals Map. Immediately to the south of the site is an area of Green Belt land which is not intruded upon by the proposal.

The application has been called in to Committee by three Councillors due to public concerns about the development which include the impact to the local area.

The item was previously deferred at the preceding Committee meeting dated the 15<sup>th</sup> August in order to allow a Committee site visit to take place which has also given the applicant opportunity to submit revised plans to overcome tree impact concerns raised in relation to the proposal and for further publicity and consultation upon them to be considered. Additional financial information has also been submitted by the applicant in relation to a contribution request made for public open space provision.

**The 8 week period for the determination of this application expired on the 7<sup>th</sup> August 2017.**

## **RECOMMENDATION**

**Subject to an independent review confirming that the scheme cannot, at present, support any financial contribution and subject to consideration of the further awaited comments of the Landscape Development Section:-**

**A) Subject and subject to the applicant entering into a Section 106 obligation by 12<sup>th</sup> October 2017 that either**

- (i) If the independent review of the scheme confirms that a financial contribution cannot be supported and the development is considered to be acceptable without some/all of that contribution, a review of the financial assessment of the scheme if there is no substantial commencement within a year of the grant of planning permission, and a contribution being made to public open space if the scheme is evaluated at that time to be able to support such a contribution; Or**
- (ii) secures a public open space contribution of £11,158 towards improvements to Guernsey Drive Play Area, and/or Wye Road Playing fields.**

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

- 1. Time limit/plans.**
- 2. Materials.**
- 3. Approval of all boundary treatments.**
- 4. Approval of landscaping provision including tree planting.**
- 5. Tree protection measures where appropriate.**
- 6. Prior approval of any site level changes.**
- 7. Prior approval and impetration of a noise assessment with any mitigation measures necessary.**
- 8. Construction hours be 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.**
- 9. Approval and implementation of a Construction Management Plan.**
- 10. Provision of parking and turning areas in accordance with the approved plan and surfaced in a bound porous material.**
- 11. The integral garage for Plot 1 shall be retained for the parking of motor vehicles for the life of the development.**

**(iii) Should planning obligation as referred to at A) 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 the provision of a play area or, if he considers it appropriate, to extend the period of time within which such obligations can be secured.**

## **Reason for Recommendation**

There is a protected tree on the site (a Scots Pine tree) which makes an important contribution to the local landscape. The tree is clearly visible from Bunny Hill, and is also visible from Stockwood Road, Barford Road, Kensworth Close, Ridgemont Road, Langford Road, and Wye Road. The tree makes a valuable contribution to the local landscape and the information provided with the application when initially submitted did not demonstrate that the development would not cause harm or loss of the tree and a consequent detrimental effect on the visual amenity. Further supporting information has been submitted, however, in an attempt to demonstrate that the tree can be retained and the views of the Landscape Development Section are awaited.

The development site albeit consisting of garden land is in a sustainable location for new housing. The impact on the form and character of the area is acceptable taking into account wider landscape impacts. There are some attractive mature trees around the periphery of the

site at least one of which will be affected, as are some other trees within the site... The ground levels make it difficult for attractive mature boundary trees to be retained but the applicant is submitting that they can be retained in the tree impact information now submitted. The views of the Landscape Development Section are awaited on that information. The impact to neighbouring living conditions would not be significantly eroded subject to the use of appropriately worded planning conditions. There are no highway safety issues which weigh against the proposal.

A financial contribution towards public open space provision is required by current policy and is deemed appropriate and following receipt of a financial viability case from the applicant independent advice will be sought as to whether the development can support such a contribution without rendering it unviable and further information will be reported.

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

Tree impact concerns have led to additional information being requested from the applicant to establish whether or not those concerns can be overcome alongside viability information to the development scheme in relation to financial contribution.

**Key Issues**

Two 3 bed roomed and one 4 bed roomed dormer bungalows are proposed on the site which is divided into plots 1-3 as shown on the submitted plans.

- The dwelling shown on Plot 1, that at the head of proposed new access drive, has a footprint of 17.4 by 15 metres, and 9.9 metres in maximum height owing to changes in ground levels.
- The dwelling shown on Plot 2 has a footprint of 9.6 by 12 metres, and 7.2 metres in maximum roof ridge height.
- The dwelling shown on Plot 3 has a footprint of 8 by 12 metres, and 7.2 metres in maximum roof ridge height.

The 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 the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?
5. Is the impact on highway safety acceptable?
6. What financial contributions are required?
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. The site under consideration is presently garden land and therefore does not constitute previously developed land according to the NPPF.

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 relatively close proximity to various facilities in Clayton and beyond in Newcastle town centre and its 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%).

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 . 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 site is at the top end of a cul de sac on the edge of the urban area, backing onto open countryside which lies within the Green Belt. The site slopes downwards towards Stockwood Road where properties are at a much lower level, and to the boundary with the open countryside as well. The plot, along with the other two at the head of the cul de sac, is significantly larger than other plots on Barford Road being a corner plot. The three proposed properties would be lie parallel to the Barford Road/Stockwood Road boundary and would have significantly shorter rear gardens than some, but not all properties, in this area. Although the 3 dwellings proposed would be a clear break from the existing form and character of the properties along Barford Road, they are discretely positioned at the corner of

the head of the cul de sac and the view taken is that there would be no material visual harm arising from the development.

Concerns have been raised in relation to the wider landscape impact of the proposal. Particularly with respect to public views from Bunny Hill (a local recreational walking area) which is to the south of the application site. Considering that perspective the development will be seen in the context of other urban residential development and therefore the additional two dwellings proposed (discounting the one already on the site) will not appear inappropriate from wider views.

Subject to controls over external facing materials and boundary treatments the impact on the character of the area is acceptable.

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

A Tree Preservation Order Assessment has been carried out by the Landscape Development Section, and Tree T12 (a Scots Pine) meets the criteria for protection. Other trees on this site which will require removal do not meet the criteria for protection. A Tree Preservation Order was served on 8th August.

The Scots Pine tree makes an important contribution to the local landscape. The tree is clearly visible from Bunny Hill (public open space), and is also visible from Stockwood Road, Barford Road, Kensworth Close, Ridgemont Road, Langford Road, and Wye Road.

The tree occupies an elevated position, and is a backdrop feature within the local landscape setting. There are distant views of the tree from a wide area within the locality. The tree makes a valuable contribution to the local landscape and its loss would have a detrimental effect on the visual amenity.

The Scots Pine is of a good shape and form, with a full and healthy crown and is sufficient quality to be retained. It is suggested by the Landscape Development section that the layout of the proposed development may possibly be altered to allow for T12 to be retained and protected and to allow space for its future growth. The applicant has submitted revised plans in that regard and a further separate update will be given.

### 4. 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.

In terms of separation distances between the proposed dwellings and existing properties the proposed dwellings are significantly closer to the intervening boundary than those (on Stockwood Road) are on other side and they are aligned parallel rather than oblique to that boundary. However there is around 35 metres between the dwelling shown on plot 2 and number 61 Stockwood Road (the closest of the houses on Stockwood Road) which exceeds the minimum recommended distance of 24 metres referred to in the SPG taking into account ground level differences changes where an additional 3 metres separation is recommended as being appropriate in addition to the 21 metre standard.

With respect to No.s 7 and 9 Barford Road either side of the application site the scheme has been designed so that there is no significant impact to the principal windows of those dwellings. The layout applied for complies with privacy and outlook standards achieved through the position of the driveway and orientation of the dwellings proposed.

Taking into account surrounding properties the proposal is in accordance with the terms of the SPG.

The Environmental Health Division have advised that a noise assessment and any mitigation measures will need to be incorporated into the development to ensure suitable noise levels are

achieved for habitable areas and external space (having regard to the noise of traffic on the M6). The use of a planning condition requiring those details could overcome that particular concern. They have also advised that any use of piling for foundations should be subject to a vibration assessment with any mitigation measures necessary to protect neighbouring residents.

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

The NPPF indicates that development should only be prevented or refused on transport grounds where the impact of development is severe.

The dwellings on plots 2 and 3 each have 2 car parking spaces. Plot 1 has 4 parking spaces when including the integral garage.

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 there is no significant detriment to highway safety arising from the proposal.

6. What financial contributions are required?

Landscape Development Section advise that a financial contribution of £5,579 per dwelling be sought towards public open space improvements and maintenance. This amounts to £11,158 for the two additional dwellings that have been proposed.

Saved Local Plan policy C4 (part of the approved development plan) does not support the seeking of a contribution for developments of less than 10 units or less than 0.4 ha. The site covers 0.2ha. The more recent Core Spatial Strategy (also part of the development plan), CSP5 indicates that developer contributions will be sought to provide a key funding source to meet the needs of new residents and for the delivery interalia of the Urban North Staffordshire Green Space Strategy and any approved revisions or replacement strategies. There is such a replacement strategy the Open Space Strategy that was adopted by Cabinet at its meeting on the 22nd March 2017.

The recommendation contained within the Development Strategy of the OSS was that as good practice for residential development 0.004 ha per dwelling of open space should be provided for the total number of dwellings; and that such open space will be provided in areas of not less than 0.1 ha regardless of development size. It goes on to indicate that a cost model for offsite contributions will need to be agreed based upon a Table that is itself an update of the cost model that was contained within the 2007 Urban North Staffordshire Green Space Strategy.

In this case LDS are not seeking open space on the site itself but instead are requesting a contribution of £5,579 per dwelling.

Any developer contribution to be sought must be both lawful, having regard to the statutory tests set out in Regulation 122 and 123 of the CIL Regulations, and take into account guidance. It must be:-

- 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.

It must also comply with national planning practice guidance on the seeking of contributions for small scale developments. Most importantly ministerial policy as set out in a Ministerial Statement of the 28th November 2014, since confirmed by the Court of Appeal in May 2016, indicates that “tariff-style contributions” should not be sought from developments of 10 units or less which have a maximum combined gross floorspace of no more than 1,000 square metres. The proposal is such a development.



A tariff style contribution is defined as one where the intention is to required contribution to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The LDS have indicated that the contribution in this case would be applied to Guernsey Drive Play Area, and/or Wye Road Playing fields so whilst the amount is calculated on a “sum per dwelling” basis it does not meet the definition in the Guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such contributions in this case.

The contribution being sought is considered to meet the statutory tests. It is necessary to make the development acceptable in planning terms and directly related to this residential development (it seeks to address the additional demands upon open space which residential development brings) and is fairly and reasonably related in its scale – the Open Space Strategy setting out a detailed methodology to demonstrate how the capital element of the sum (£4,427) is calculated whilst the maintenance element (£1,152) represents 60% of the costs of 10 years maintenance – a figure in line with that sought by other LPAs, according to the Strategy.

For the avoidance of doubt it can be confirmed that the obligation would not be contrary to Regulation 123 either.

The applicant has only become aware of the Landscape Development Sections request at a very late stage in consideration of this scheme and as a result did not anticipate that this would be a requirement of obtaining planning permission. They have in response submitted a short financial appraisal with the aim to demonstrate that the development would not be viable with such an obligation. Upon confirmation that the applicant is prepared to cover the costs, your Officer will be seeking the independent review of the submitted financial information. Further information will be report upon receipt of that review.

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?

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. Some limited economic benefits would arise during construction and as a consequence of the occupation of the dwellings. In relation to negative impacts it is anticipated that the loss of a visually significant protected tree would be harmful to the character of the area. The positive elements in allowing the development to proceed acknowledged do not outweigh the harm arising from tree removal.

## 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

#### [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 \(2010\)](#)

#### Relevant Planning History

58/03962/APP	Housing development	Allowed	1959
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#### Views of Consultees

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

1. Approval and implementation of a Construction Management Plan.
2. Provision of parking and turning areas in accordance with the approved plan and surfaced in a bound porous material.
3. Integral garage for Plot 1 shall be retained for the parking of motor vehicles for the life of the development.

**Severn Trent** have been consulted but no comments have been provided by the due date of the 24<sup>th</sup> July so it is assumed they have no objections to the development.

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.
3. Prior notice of any piling activity which will also be subject to a vibration assessment and mitigation measures for surrounding occupiers.

The **Landscape Development Section** following the receipt of additional arboricultural information submitted by the applicant make the following comments:

The Landscape Department do not support the loss of T12 which is an attractive Scots Pine tree. Information provided in the Tree Survey and Impact Assessment and on the present layout drawing shows that this tree would be lost as a result of the development. A Tree Preservation Order was served on 8th August to protect the tree.

The Scots Pine tree makes an important contribution to the local landscape. The tree is clearly visible from Bunny Hill (public open space), and is also visible from Stockwood Road, Barford Road, Kensworth Close, Ridgemont Road, Langford Road, and Wye Road. The tree occupies an elevated position, and is a backdrop feature within the local landscape setting. There are distant views of the tree from a wide area within the locality.

The tree makes a valuable contribution to the local landscape and its loss would have a detrimental effect on the visual amenity, not only of the site but also to the locality. The Scots Pine is of a good shape and form, with a full and healthy crown and is sufficient quality to be retained. It is suggested that the layout of the proposed development be altered to allow for T12 to be retained and protected and to allow space for its future growth.

The following is also requested should permission be granted for the proposal:

- a contribution by the developer for capital development/improvement of off-site open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £5,579 per dwelling. This would be used for improvements to Guernsey Drive Play Area, and/or Wye Road Playing fields.
- An appropriate planning condition to secure landscaping proposals.
- An appropriate planning condition to secure approval of Tree Protection measures to retained trees (some of which are overhanging the site and do not belong to the applicant).

The views of the LDS have been sought upon additional information that has been submitted regarding the impact of the development on the Scots Pine.

#### Representations

14 letters of representation have been received, including a letter from **Mr Paul Farrelly MP** objecting to the proposal on the following grounds:-

- Overlooking/ privacy detriment to neighbours (including the occupiers of 61 Stockwood Road).
- Mature trees in the area provide drainage solutions and if they are removed it would cause a flooding problem.
- Tree loss would be damaging to wildlife and biodiversity.
- It's inappropriate to increase the housing density within Barford Road due to form and character concerns.
- There are landslip/ land stability concerns if the site is developed.
- Surface water and foul drainage details are absent and may be difficult to achieve on the site given the levels.
- The plans are not clear, lack dimensions and accuracy.
- Light levels will be diminished for neighbours.
- Emergency vehicles need adequate turning room.
- Trees on the site are valuable and should be protected by order.
- There is insufficient separation with neighbouring properties.

- There will be an adverse impact to the character of the area including from long distance views from Bunny Hill.
- Application reference NNB00804 (Housing development of 3 sites in the 1950's) was refused which is important to acknowledge.
- Noise and dust created will be detrimental to neighbours.
- The dwelling shown on Plot 1 is too big.

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

Application forms and indicative plans have been submitted along with a Tree Impact Report. These documents are available for inspection at the Guildhall and via the following link

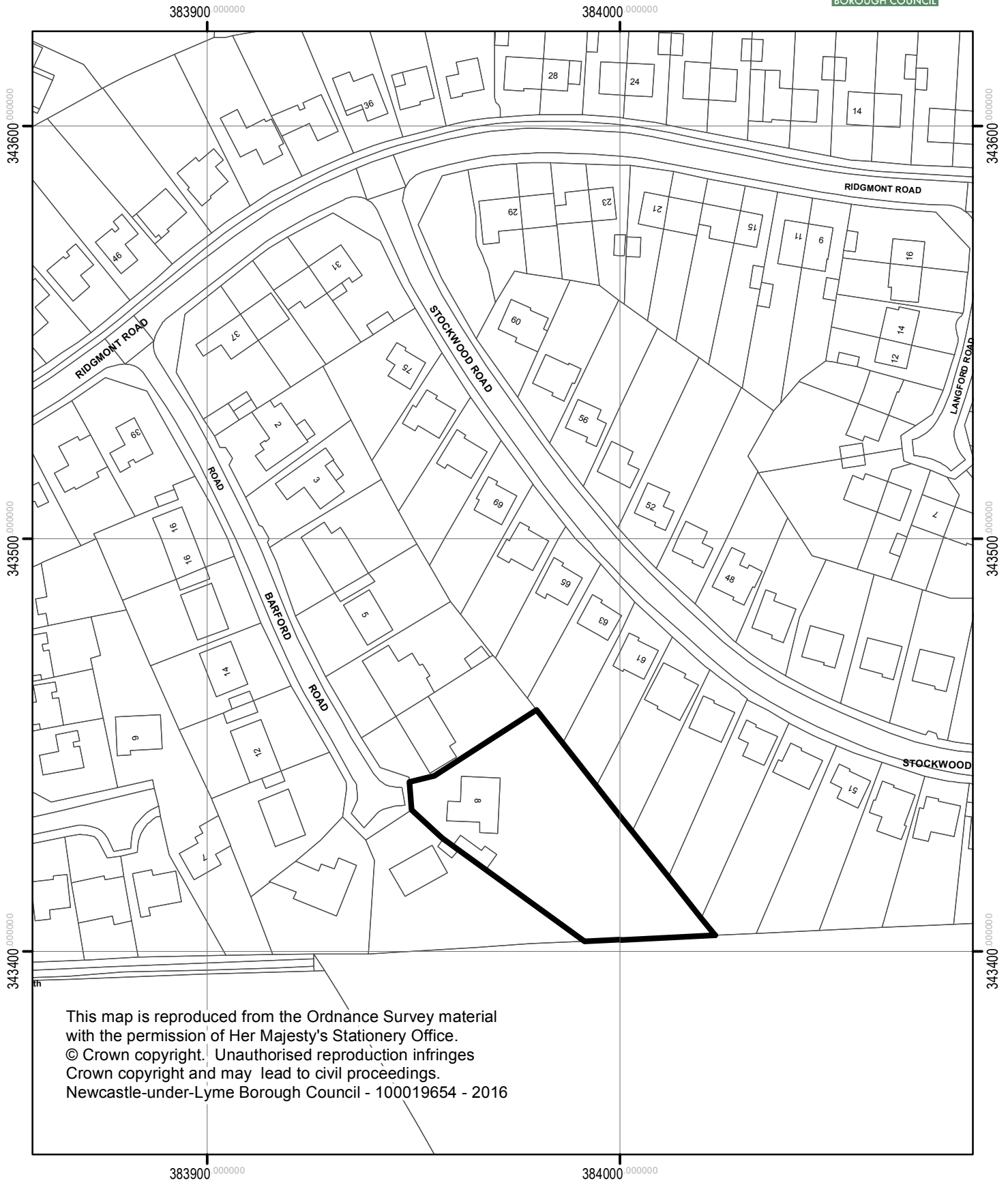
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00483/FUL>

#### **Background Papers**

Planning File.  
Planning Documents referred to.

#### **Date Report Prepared**

31<sup>st</sup> August 2017.



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**114 MOW COP ROAD, MOW COP  
MR & MRS K SPENCER**

**17/00564/FUL**

The Application is for full planning permission for the demolition of the existing dwelling and construction of a replacement dwelling.

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 Restoration (policy N21), as indicated on the Local Development Framework Proposals Map.

**The 8 week determination period expires on the 4<sup>th</sup> September 2017. The applicant has yet to agree an extension to the statutory period**

## **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, outbuildings and hardstandings**
- v) Soft landscaping scheme to include full details of boundary treatments**
- vi) Completion of access, parking and turning areas prior to occupation**
- vii) Controls over construction activities**

## **Reason for Recommendation**

The proposed replacement dwelling would be materially larger than the building it replaces and therefore constitutes inappropriate development in the Green Belt. However, the applicant could carry out extensions to the existing property that would result in a dwelling of a greater volume to that proposed. The proposed dwelling would have no greater impact on the openness of the Green Belt than would the existing dwelling if extended. This is a fall-back position.

The existing property, due to its poor state of repair, is visually harmful and the proposal constitutes a significant improvement in the overall appearance of the site.

In light of the fall-back and that the development will improve the appearance of the site in a significant way it is considered that very special circumstance exist that justify approval of planning permission subject to the removal of permitted development rights and conditions.

## **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 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 replacement dwelling involving the demolition of the existing dwelling. From information within the planning records for this site it would appear that the existing dwelling was last occupied in 1977. The building has been steadily falling into disrepair for this period and is now in a dilapidated state, and has already been partially demolished / fallen down.

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 Restoration (policy N21), as indicated on the Local Development Framework Proposals Map.

This application follows the refusal and subsequent dismissal at appeal of an application for a replacement dwelling. That proposal was considered to be acceptable in respect of residential amenity. The relationship of the dwelling as proposed in this application is similar and as such further consideration of this issue is not now required.

The key issues in the determination of the development are:

- Is the proposal appropriate development within the Green Belt?
- Design of the proposals and the impact on the area of landscape restoration, 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 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 indicates in paragraph 89 that local planning authorities should regard new buildings within the Green Belt as inappropriate. Exceptions to this include the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces.

In the determination of the two most recent applications on this site, for similar development to that which is proposed in the current application, the Council concluded that the residential use of the site had been abandoned. Therefore as the proposed building was not in the same use as the existing it was inappropriate development. The Inspector in dismissing the appeal on application 16/00389/FUL did not agree that the use had been abandoned however. That the proposed building is in the same use as the existing is not, therefore, in doubt. The LPA must take the Inspector’s conclusion on this matter into account – there having been no material change in the relevant circumstances since that conclusion

The existing property consists of a small, partially single/partially two storey cottage and a lean to ‘garage’ at the rear of the remaining wall of a section of the original building which has been demolished / fallen down. The supporting information provided calculates that the existing building amounts to 171.9m<sup>3</sup> in volume and what is proposed is 429 m<sup>3</sup>. These calculations are not disputed and it can be concluded, given the volume increase proposed, that the replacement dwelling is materially larger than the dwelling it replaces. It is therefore inappropriate development within the Green Belt and should not be approved except in very special circumstances. This will be addressed below.

#### Design of the proposals and the impact on the area of landscape restoration

The NPPF indicates in paragraph 60 that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is however proper to seek to promote or reinforce local distinctiveness. Furthermore, in paragraph 63 it also indicates that great weight should be given to outstanding or innovative designs.

Saved Local Plan Policy N21 seeks to restore the character of the area’s landscape and improve the quality of the landscape. Within such an area it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The existing property occupies a backland position at a higher level than existing properties that directly front onto Mow Cop Road. It is not visible in views from Mow Cop Road but given that public footpath no. 110 Kidsgrove runs by the eastern boundary of the site it can be seen from public vantage points and the dilapidated appearance of the existing building is visually harmful.



The proposed replacement dwelling has a cottage appearance and is set into the sloping land within the site so that it is two storey on the front elevation and single storey at the rear. The proposed dwelling is 1.5m higher than the existing cottage and occupies a larger footprint. Notwithstanding the increase that is proposed the traditional cottage style appearance is appropriate to this village location and would enhance the appearance of the site quite considerably.

There are no significant landscape features within the site that will be removed or adversely affected by the proposed. Therefore in summary the proposed replacement dwelling, whilst larger, would be an improvement within the landscape which would comply with saved policy N21 of the Local Plan and the general design requirements outlined in the NPPF. It is therefore considered acceptable in terms of such policies.

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

The NPPF sets out that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. It further 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 dwelling currently proposed differs from that considered at appeal has been reduced by reducing the width of the building by about 2m, reducing the size of some of the proposed rooms and omitting some internal storage space and an integral garage. The volume of the building has therefore been reduced from that which was considered at the appeal.

The existing property has full permitted development rights and so certain extensions, alterations and outbuildings can be carried out without planning permission. These could, potentially, include a single storey extension on both sides of the existing property, extensions to the rear and a porch. The volume increase of such extensions that could be built without any need for planning permission, added to the volume of the existing dwelling, would, according to the applicant, exceed that which is proposed within this application. Given the very modest size of the existing property it is very likely that such extensions would be constructed to bring the building back into residential use. The accommodation that is provided within the proposed replacement dwelling is modest (two double and one single bedroom, a reasonable sized lounge and a dining/kitchen area). There is a fall-back position that could be exercised by the applicant and needs to be considered in the determination of this application and was not taken into consideration by the Inspector at the appeal.

In dismissing the appeal the Inspector did acknowledge that, by replacing the cottage that has been vacant for many years and is inhabitable in its present state, the development would help to address the need for housing by making available a modern dwelling that would be ready to live in. He did go on to consider, however, that as the proposal would only result in a single dwelling becoming available only limited weight could be attached to this consideration in favour of the proposal. Other benefits identified and given weight was the improvement in visual amenity as a result of the replacement of a dwelling in poor condition and the economic benefits arising from the construction of the dwelling. As far as the Inspector was concerned such benefits did not outweigh the harm arising as a result of the development being inappropriate due to it being materially larger than the building it replaces. It does appear, however, on reading the Inspector's conclusions that his judgement was that this harm compared to the benefits were finely balanced.

Whilst the current proposal is not significantly different to that presented at appeal the differences are such that it is considered that the planning balance now weighs in favour of granting permission and that there are the very special circumstances required to justify the proposed development in this instance.

Given the nature of the very special circumstances demonstrated it is necessary and appropriate to remove permitted development rights and notwithstanding the submission this should include the removal of permitted development rights for outbuildings as well as extensions and hardstandings.

## **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](#)

Strategic Aim 16:	To eliminate poor quality development;
Policy SP1:	Spatial Principles of Targeted Regeneration
Policy ASP6:	Rural Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change

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

Policy S3:	Development in the Green Belt
Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy N17:	Landscape Character – General Consideration
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

#### [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](#)

#### Relevant Planning History

In 1983 planning permission was granted for the demolition of 2 cottages and erection of a house with garage reference N12190. This permission was not implemented and is no longer extant.

In 2015 planning permission was refused for the demolition of existing dwelling and construction of a replacement dwelling (15/00393/FUL).

A subsequent application, again for the demolition of existing dwelling and construction of a replacement dwelling was refused in 2016 (16/00389/FUL) for the following reason:

- 1. The proposed development is inappropriate development in the Green Belt as the proposed building is not in the same use as the building it replaces, as its residential use has been abandoned, and the replacement building is materially larger than the existing. No material considerations of any weight exist as to clearly outweigh the harm that would be caused by such inappropriate development and accordingly the required very special circumstances do not exist. The development is therefore contrary to the aims and objectives of the National Planning Policy Framework and Policy S3 of the Newcastle-under-Lyme Local Plan 2011.*

The subsequent appeal was dismissed. The Inspector, in dismissing the appeal, did not agree that the residential use of the building had been abandoned but did accept that the proposal involved inappropriate development as the replacement dwelling was material larger than the existing.

#### Views of Consultees

The **Environmental Health Division** refer back to the comments made for application 15/00393/FUL in which they requested a condition to restrict permitted hours of work during construction, and an informative on importation of waste materials.

The **Highway Authority** raises no objections subject to conditions securing a Construction Vehicle Management Plan (due to the proximity of the right of way) and the provision of the parking and turning area in a porous bound material prior to occupation.

The County Council's **Rights of Way Officer** advises that the submitted plans do not recognise the existence of Public Footpath No 110 Kidsgrove which runs next to the eastern boundary of the development site. It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development. If there is a private right to use with vehicles then the fact that the route is a public highway takes precedence and needs to be stressed in any planning permission.

**United Utilities** has no objections.

**Kidsgrove Town Council** and **Cheshire East Council (adjoining LPA)** have not responded to the consultation by the due date and as such it is assumed that they have no comments.

#### Representations

No letters of representation have been received.

#### Applicant/agent's submission

Application forms and plans have been submitted along with a Planning/Design and Access Statement. These documents are available for inspection at the Guildhall and via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00564/FUL>

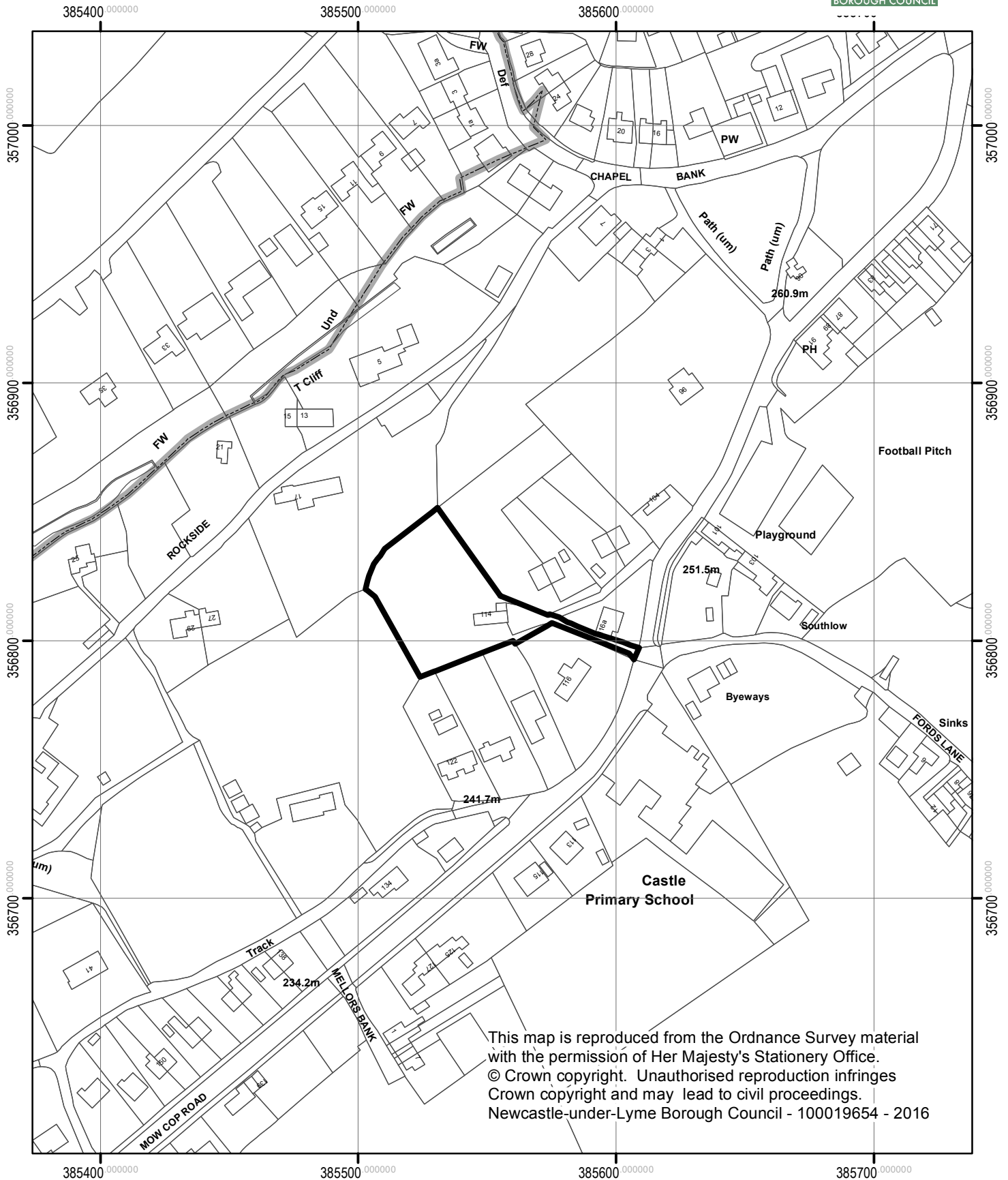
#### Background Papers

Planning files referred to  
Planning Documents referred to

#### Date report prepared

25<sup>th</sup> August 2017

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**OLD SPRINGS FARM, STONEYFORD, MARKET DRAYTON**  
**HLW FARMS**

**15/01074/FUL**

The above application is for the retention of an extension to existing agricultural buildings, linking two buildings to form one.

**RECOMMENDATION**

That the decision of your Officer, following consultation with the Chair, that the Council should agree to enter into a Section 106 agreement, be noted

**Reason for Recommendation**

The matter was urgent and an immediate decision was required which was then taken following consultation with the Chairman. The basis for the decision is explained in the report below.

**KEY ISSUES**

Members may recall that planning permission was granted in 2009 for a crop storage barn, specifically for storage of crops that would be used at the Biomass Station at Eccleshall (reference 09/00137/FUL). A S106 obligation was entered into relating to the routeing of all heavy commercial and other vehicles travelling to and from the site and the Biomass Station. A different building was constructed, however not in accordance with the approved plans. A report was taken to the Planning Committee meeting on 28<sup>th</sup> April 2015 where Members noted that the evidence available to the Council suggested that the building was substantially completed more than 4 years ago and was now immune from any enforcement action.

Planning permission was issued in 2015 for the retention of an agricultural building for the chopping and storage of miscanthus (13/00245/FUL). A S106 obligation was entered into in connection with that planning permission which secured a routeing agreement for vehicles transporting miscanthus to and from the building.

A site visit was undertaken, in 2015, to establish whether the S106 obligation was being complied with and at that visit it became apparent that an extension had been constructed that linked the building permitted under reference 13/00245/FUL to the building that had been established as being immune from enforcement action, forming a larger single building. A retrospective application was submitted, upon request, to regularise that development reference 15/01074/FUL.

Consideration was given, under delegated authority, to the development that had been undertaken and for which planning permission was being sought (15/01074/FUL) in June 2016. It was concluded that whilst a routeing agreement could not be required in connection with the use of the unauthorised building the works undertaken to incorporate that building into one, larger, building provided the opportunity to reopen that issue. In addition, the same reasons why a routeing agreement was required to make the development permitted under reference 13/00245/FUL acceptable, i.e. to avoid adversely affecting highway safety, and the character of the Conservation Area through which Tyrley Road passes, applied to the new larger building. As such the applicant was advised that planning permission would only be granted if a S106 obligation was first entered into to secure a routeing agreement for the entire building.

Protracted discussions have since been taking place with the applicants. The applicants were indicating, until recently, that they would not enter into such an obligation considering it to be unlawful. They have, however, more recently accepted that a S106 obligation is required and have provided a signed copy to the Authority. Upon receipt of the signed obligation it became apparent that there is no authority under the Scheme of Delegations set out in the Council's Constitution for your Officer to make such a decision, and the decision on whether to authorise the required Deed of Variation is one that falls to the Planning Committee to make.

Given that the next Planning Committee meeting which the matter could be reported to for a decision was some 4 weeks from the receipt of the signed obligation your Officer invoked the procedure for matters of urgency set out in Appendix 4 in the General Instructions section of the Constitution and

your Officer consulted with the Chair of Planning Committee. The two reasons why your Officer considered that the completion of the agreement was urgent (and should not wait until after the 12<sup>th</sup> September meeting) and were as follows:

First of all an appeal against the application's non-determination could be lodged at any time (the application has been with the authority for two years) and if it were then the Council would be quite exposed to the accusation of unreasonable behaviour (in that the other side have expected since last June that officers have had authority to enter into the agreement). The fact that the Council were delaying completing/signing so that the decision could be made by the appropriate part of the Council would, if this matter came before an Inspector, be unlikely to persuade them that the Council had not behaved unreasonably.

The second concern is that in the absence of a grant of planning permission for the development in the interim the development could become lawful simply because of the passage of time. Developments without planning permission become lawful if more than 4 years has passed since they were substantially completed. The Council's evidence as to when the building became substantially completed is limited (it could have been completed sometime before the enforcement officer first saw it as this is a relatively remote site that is not overlooked by neighbours). There is information in the application form which gives the date of completion of the building as considerably less than 4 years ago, but the Council has previously been misled by similar information on this site which turned out later on to be incorrect. It was considered to be in the public interest to avoid this happening again.

In addition given the decision of the Planning Committee in respect of 13/00245/FUL your Officer had reason to consider it is extremely likely that the Committee would agree anyway to the idea of the further planning obligation.



## 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  
Policy ASP6: Rural Area Spatial Policy

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

Policy N17: Landscape Character –General Considerations  
Policy N18: Area of Active Landscape Conservation

Other material considerations include:

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

[Planning Practice Guidance \(PPG\) \(2014\)](#) (on planning obligations, and on appeals)

Background Papers

Planning files  
Planning documents referred to

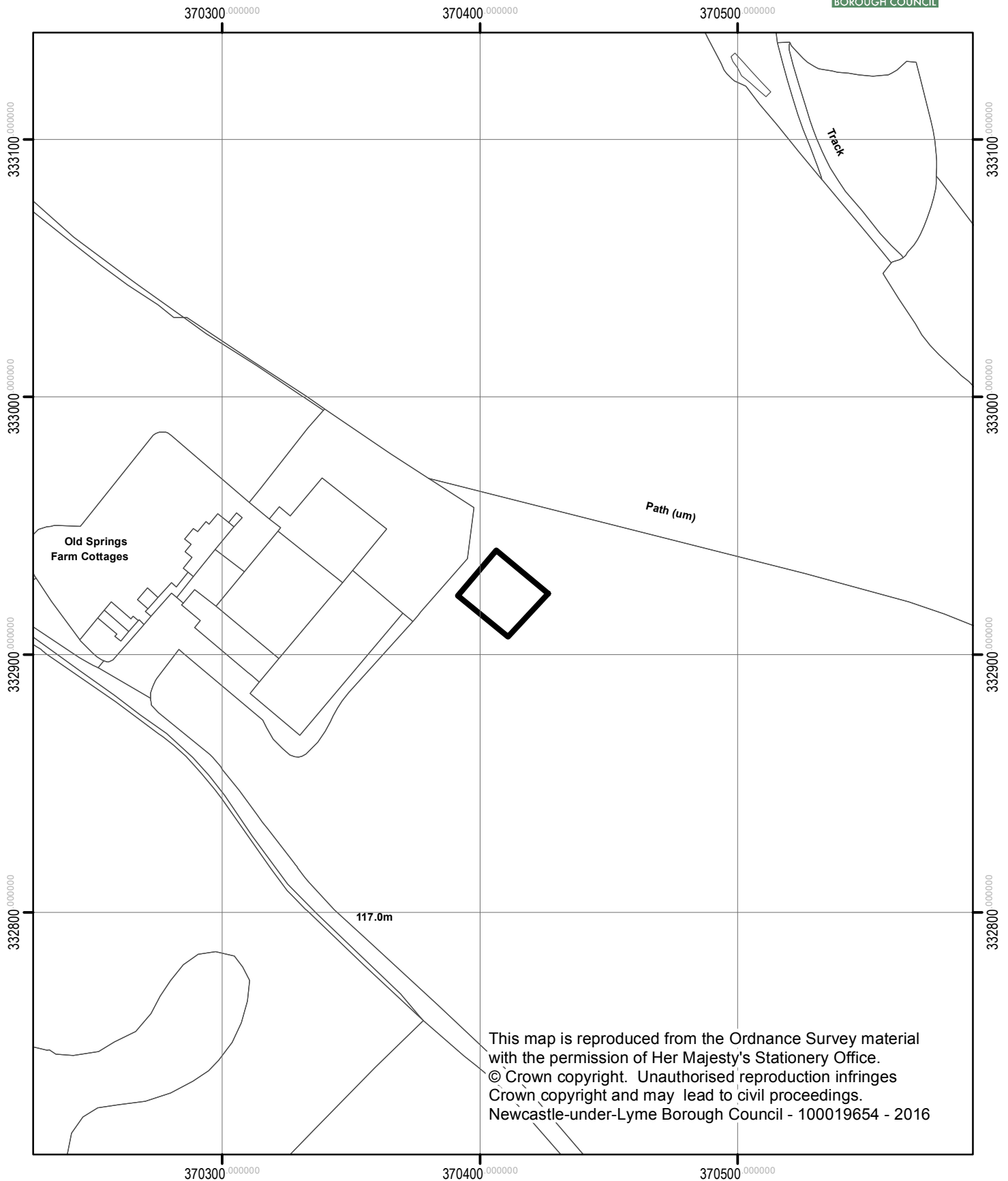
Date report prepared

29<sup>th</sup> August 2017

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# Old Springs Farm

15/01074/FUL



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**10A BROWN LEES ROAD HARRISEAHEAD**  
**MR STEVE WILCOCK**

**17/00474/FUL**

The Application is for full planning permission for the retention of an Animal Welfare Unit

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 Restoration (policy N21), as indicated on the Local Development Framework Proposals Map.

**The 8 week determination period expired on the 31st July 2016 and no extension to the statutory determination period has been agreed.**

## **RECOMMENDATION**

**Permit with no conditions**

## **Reason for Recommendation**

The building is used for agriculture and hobby farming and whilst the hobby farming element does not represent appropriate development within the Green Belt it is considered that the benefits of the scheme, which would enable the existing farming enterprise to expand, would outweigh the limited amount of harm to openness of the Green Belt which justifies approval of planning permission in this instance.

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

Officers of the LPA requested further additional information from the applicant during the consideration of the application and this was submitted. The building is now considered to be a sustainable form of development that would comply with the provisions of the National Planning Policy Framework 2012.

## **KEY ISSUES**

The application is for full planning permission for the retention of a building measuring 11.055m long, 3.658m deep and 3.4m high which has been constructed to provide winter cover for 'hobby' animals including sheep and alpacas, to provide a lambing shed and to store animal feed. The building is located at the south western extremity of the 'holding' approximately 27m from the house to which it is related. The site is located within the Green Belt and within an Area of Landscape Restoration, as indicated by the Local Development Framework Proposals Map.

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

- Is the development appropriate development in the Green Belt?
- Is the design of the proposed development acceptable?
- The impact upon the Area of Landscape Restoration?
- Do very special circumstances exist which would outweigh the harm caused to the openness of the Green Belt, and any other harm?

Is the development appropriate development within the Green Belt?

Paragraph 79 of the 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 indicates in paragraph 89 that local planning authorities should regard new buildings within the Green Belt as inappropriate. Exceptions to this include buildings for agriculture and forestry and

those providing appropriate facilities for outdoor sport or outdoor recreation. In the latter case such buildings are not inappropriate as long as the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

The applicant has provided some information and whilst sheep are grazed on the land the building is primarily used for 'hobby' purposes, i.e. the nature of the animals and the manner they are kept is not for an agricultural enterprise – trade or business. It is also considered that the building does provide appropriate facilities for outdoor sport and outdoor recreation.

The proposal is therefore considered to represent inappropriate development in the Green Belt and should not be approved except in very special circumstances. This will be addressed below.

#### Is the design of the proposed development acceptable?

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 Urban Design SPD (2010) states that the aims for development within, or to extend, rural settlements are to respond to the unique character and setting through an understanding of settlement pattern and the setting within the wider landscape, celebrating what is distinct and positive in terms of rural characteristics, and topography in each locality, and generally to locate new development within village envelopes where possible and minimise the impact of the existing landscape character.

As indicated above the building is located in a field to the rear of existing properties and is therefore outside of a rural settlement. It is a steel framed building finished with fibre cement roof cladding sheets in natural grey and walls of tanalised lapped Yorkshire boarding. It has three front stable style doors with a projecting canopy over. It is of a typical stable style and appearance that is considered acceptable in this rural location.

The area is designated as a Landscape Restoration Area, and it is considered that the building does not erode the character of the area, and would therefore comply with the aims of Policy N21 of the Local Plan.

Overall, the design and appearance of the building is considered to comply with the aims and objectives of the NPPF and the Urban Design SPD.

#### 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 statement which seeks to justify the need for the development.

The applicant indicates that 3 acres of agricultural land was purchased 9 years ago by the applicant's father and an agricultural holding number was obtained from the Rural Payments Agency in 2008 to allow the registration and identification of cattle so that he could purchase young stock and then sell on once matured. This Holding is now farmed by his son who also rents the adjoining 3 acres owned by a neighbour; their vision is to increase the profitability of the land to support the family through a programme of structured growth.

The building allows for good welfare of animals that are ably supported on the available grazing land. Their intention is to locate additional grazing for renting and so increase their breeding stock.

The Holding currently is home to 30 sheep, 5 pigmy goats, 2 Alpacas, geese, chicken, peacocks and a small pony. Income is derived from sale of eggs and by the breeding of lambs (the current flock are due to lamb early in the New Year). The family are also looking at breeding from the goats and the two alpacas recently purchased.

The holding and building is primarily hobby farming but there is some element of rural enterprise, as well as recreation. It is a modest sized building and has an acceptable appearance and one which you would expect in a rural location. The 3 stable design allows it to be used by a variety of animals at any one time or wholly for lambing purposes.

The building would allow the existing hobby farm to develop and expand the business element of the use. Therefore, on balance it is considered that the harm arising from the fact that the development is inappropriate and its impact on openness is considered to be outweighed by the above considerations, and the required very special circumstances can be considered to exist in this case.

## **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

[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**

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](#)

Planning History

None relevant

Views of Consultees

**The Environmental Health Division** – No objections

**Kidsgrove Town Council** – No observations received

Representations

None received

Applicants/agents submission

The requisite plans and application forms were submitted. A supporting design and access statement 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/17/00474/FUL>

Background Papers

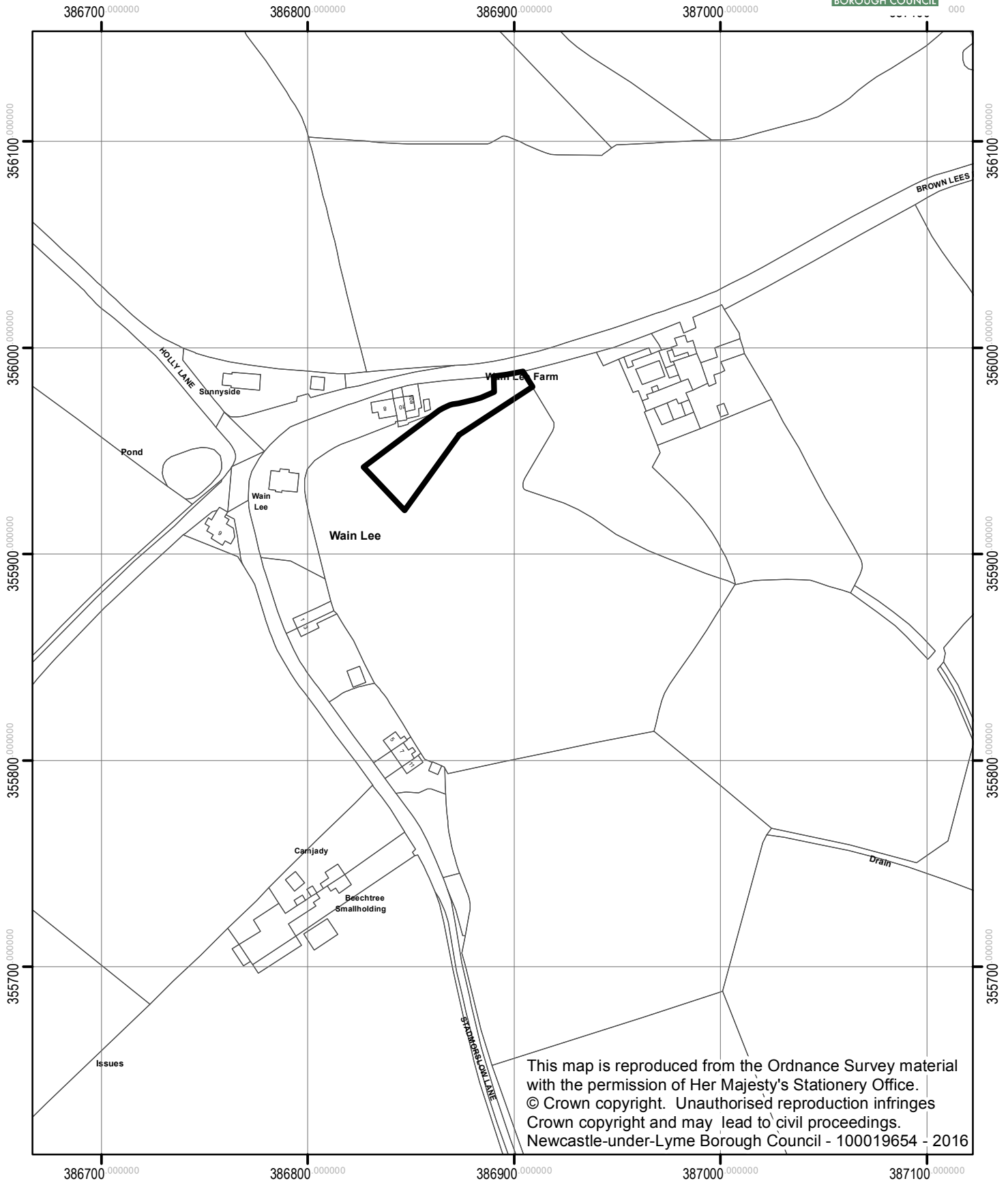
Planning files referred to

Planning Documents referred to

Date report prepared

29 August 2017





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**WALL FARM, 99 NANTWICH ROAD, AUDLEY**  
**MR NIGEL HOLLAND**

**17/00573/FUL**

The Application is for full planning permission for the conversion a pig sty and existing storage barns to a dwelling, involving new build elements.

The existing access would be utilised off Nantwich Road which serves the application site and the existing farmstead.

The application site is located 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 1<sup>st</sup> September 2017, the applicant has, however, agreed to extend the determination period until 15<sup>th</sup> September**

## **RECOMMENDATION**

**Permit, subject to the following conditions**

- 1. Commencement of development within 3 years**
- 2. Development in accordance with the submitted plans**
- 3. Occupation of dwelling to be restricted to someone connected to the agricultural business at Wall Farm**
- 4. External materials**
- 5. Car port to be provided prior to occupation and retained for that purpose**
- 6. Removal of Permitted Development Rights for extensions, roof alterations and outbuildings**
- 7. No conversion/ construction works during March-August inclusive**
- 8. Erection of bat and bird boxes**

## **Reason for Recommendation**

Whilst the proposal includes inappropriate development in the Green Belt it is considered that the openness of the Green Belt would be preserved. Taking the visual improvements that would arise from the development in addition to the lack of harm to openness, it is considered that this represents the very special circumstances necessary to justify the development. In these circumstances, planning permission should be granted. The development is considered to be a sustainable one.

## **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 this has resulted in a more sympathetic conversion of the original pig sty than had been originally proposed. The 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 the conversion of a pig sty and existing storage barns to a dwelling. This is a revised scheme following the withdrawal of application 16/00995/FUL.

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 existing access would be utilised off Nantwich Road which serves the application site and an existing farmhouse and farm buildings. No highway safety issues have been identified in association with the proposed development. The Environmental Health Division have no objections to the proposal, which is understood to be on the basis that it would be occupied by those with a connection to the farming activities being carried out from the wider site.

The main issues for consideration in this application are therefore;

- Is the proposal appropriate development within the Green Belt?
- Does the proposal comply with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?
- Does the proposal comply with policies on the location of new housing?
- Residential amenity issues, 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. Such exceptions 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 the new building is in the same use and not materially larger than the one it replaces.

Paragraph 90 sets out that “certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt”. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.

The existing building consists of a brick built pig sty with an attached metal clad storage building. The submission involves the reduction in overall footprint of the storage building however the works involved in this element of the building are to such an extent that it would be tantamount to a new build extension. The new build element is more than double the volume of the original pigsty building. It could not be concluded, therefore that it is appropriate development by virtue of this element of the proposal not resulting in a disproportionate addition to the original building. In addition neither could it be concluded that it is appropriate development as a replacement building because it will not be in the same use.

The supporting information submitted in connection with 16/00995/FUL demonstrated that the building is of permanent and substantial construction and is capable of reuse without substantial elements of repair and rebuild. Whilst the new build element of the proposal is larger than the storage building it replaces it is considered that the openness of the Green Belt will be preserved given it replaces an existing building of greater scale. In light of these factors, and as the proposal would not conflict with any of the purposes of including land in Green Belt, it is concluded that this element on its own would amount to appropriate development as set out in paragraph 90 of the NPPF.

Given that the proposal is in part inappropriate development within the Green Belt, consideration of any very special circumstances will be addressed below.

#### Does the proposal comply with policies on the re-use of rural buildings which include the achievement of sustainable development objectives?

Local Plan policy H9 indicates that before the conversion of rural buildings for living accommodation can be considered, evidence must be provided to show that the applicant has made every reasonable attempt to secure a suitable business use for the premises, subject to Policy E12. Where this has been done the residential conversion of buildings in sustainable locations can be considered favourably provided a series of criteria are met that include the requirement that the building does not require reconstruction, extension or substantial alteration and its form bulk and general design is in keeping with its surroundings. A further requirement is that a survey must be undertaken to ascertain whether any statutorily protected wildlife species are present and if so, measures must be taken to provide for their conservation.

The NPPF states, at paragraph 55, that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. LPAs should avoid new isolated homes in the countryside unless there are special circumstances such as where such the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.

The application site is within the open countryside for development control purposes and no evidence has been submitted by the applicant to show that any attempt has been made to secure a suitable business use for the property. However, the NPPF does not suggest that the employment reuse of a building should be ruled out before residential reuse can be favourably considered. This aspect of Development Plan policy is not, therefore, consistent with the NPPF and limited weight can therefore be given this policy requirement.

An Ecological Report has been submitted, albeit in support of a previous application, which concludes that the buildings at the site are likely to be used by nesting birds during the breeding bird season. No signs of bats were found. Therefore it is recommended that construction works avoid taking place during the breeding bird season (March-August inclusive). Further enhancements which include bird and bat boxes are also advised to comply with the NPPF. In addition bat boxes should be installed.

Consideration is given as to whether the site is in a sustainable location in the next section.

#### Does the proposal comply with policies on the location of new housing?

Policy H1 of the Local Plan does refer to the acceptability of housing conversions that comply with Policy H9.

As indicated above, Policy H9 of the Local Plan requires potential conversions to living accommodation of a rural building to be in a sustainable location.

Policy ASP6 of the adopted Core Spatial Strategy 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. The site also lies beyond the Major Urban Area of North Staffordshire and is not within a Rural Service Centre. It is not considered that the proposed dwelling would serve a wider local need nor would it support local services.

As discussed Paragraph 55 of the NPPF states that LPAs should avoid new isolated homes in the countryside unless there are special circumstances such as where the development would reuse redundant or disused buildings and lead to an enhancement to the immediate setting.

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 NPPF advises in paragraph 49 that: "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

Accordingly policies such as NLP H1 and CSS ASP6 have to be considered to be 'out of date', at least until there is once again a five year housing supply.

Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development and that for decision-taking this means where the development plan is absent, silent or relevant policies are out of date 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 taken as a whole, or specific policies in the framework indicate development should be restricted. The examples given of specific policies in the footnote to paragraph 14 indicate that this is a reference to area specific designations such as Green Belts. This site is within the Green Belt and whilst it is considered to be inappropriate development if there are very special circumstances which outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm, planning permission may still be granted.

As set out above, it is acknowledged that the application building is located within the open countryside. It is, however, located directly adjoining the village envelope of Audley which is one of the Rural Service Centres designated within the Core Strategy and is located closer to the village centre and the shops and services that it offers than many other dwellings that are within the village envelope. Therefore whilst it is reasonable to conclude that the occupiers of the property would be able to access local services public transport which would offer some encouragement to utilise other modes of travel in addition to the private car.

The proposed development provides some benefits. The proposal does make a small contribution to the supply of housing in the Borough. In addition there are some economic benefits that arise from the works required to convert the building, and from its occupation. Such benefits can be given modest weight. The environmental benefits that arise from the re-use of an existing building, which is inherently sustainable, can be given significant weight. In addition a further benefit that arises from the development is the visual enhancement that arises from the change of use of the stable yard to residential curtilage. In light of this visual enhancement it is considered that the proposal would not be in conflict with paragraph 55 of the NPPF and in light of this lack of conflict it is concluded that the proposal could not be refused due to the conflict with NLP H9 regarding the requirement that conversion of buildings to residential use can only be supported where they are in sustainable locations.

Weighing everything in the balance it is considered that the adverse effect that the proposal would have in terms of its reliance on use of the private motor vehicle to access day to day services does not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.

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 extension would also be of a good quality design and replaces a structure that has no visual merit within the landscape, thus enhancing the character and quality of the landscape as advised by saved Local Plan policy N20. In addition the extension is slightly smaller than the building it replaces thus improving the openness of the Green Belt. These considerations in such circumstances where the development would preserve the openness of the Green Belt would amount to the very special circumstances required to justify the proposed development in this instance.

## 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 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

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

Policy S3: Development in the Green Belt  
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy H9: Conversion of Rural Buildings for Living Accommodation  
Policy E12: The Conversion of Rural Buildings  
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures  
Policy N12: Development and the Protection of Trees  
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

05/00135/FUL	Refuse	Conversion of agricultural buildings to form 5 dwellings with ancillary accommodation
05/00568/FUL	Permit	Agricultural portal frame building
12/00189/FUL	Permit	Conversion of agricultural buildings to form five dwellings
14/00368/FUL	Refuse and dismissed at appeal	Construction of two new dwellings on area fronting onto Nantwich Road
16/00995/FUL	Withdrawn	The building of a residential unit on the footprint of a pig sty and existing storage barns

#### Consultation Responses

**Audley Rural Parish Council** has no objections.

**Landscape Development Section** raises no objections subject to agreement of pruning works for the adjacent trees.

The **Environmental Health Division** has no objections to this development

The **Highway Authority** has no objections subject to the retention of the carport for the parking of motor vehicles and cycles.

**United Utilities** have been consulted, however as their response has not been received by the due date it is assumed that they have no comment.

#### Representations

No representations received.

#### Applicants/agents submission

The requisite plans and application forms were submitted. These documents can be viewed on the Council's website;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00573/FUL>

A structural survey, design and access statement, details of proposed cladding and bat and bird survey were submitted in support of a similar proposal that was withdrawn. Such supporting information can be viewed on the Council's website also;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00995/FUL>

#### Background Papers

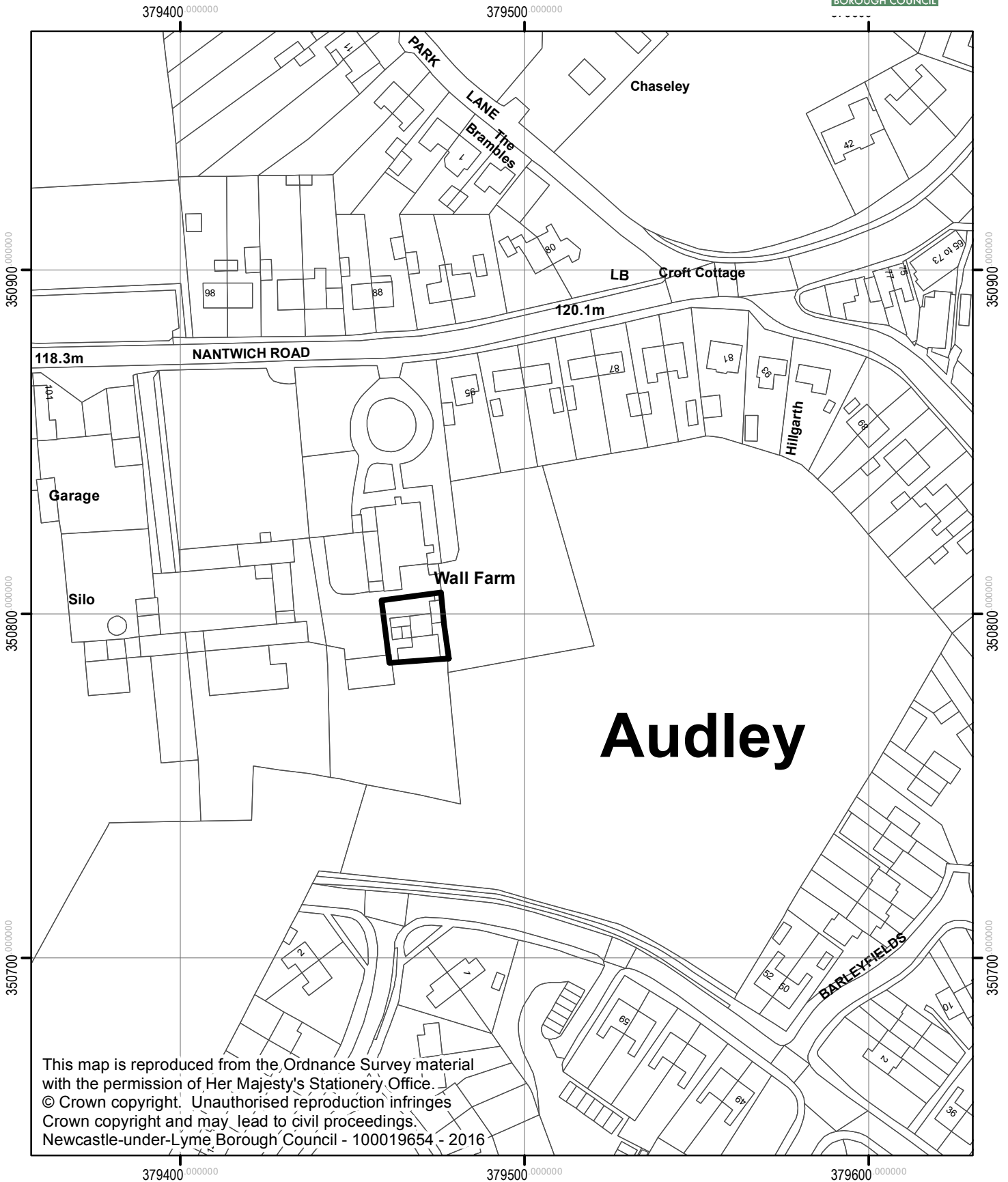
Planning files referred to  
Planning Documents referred to

#### Date report prepared

28<sup>th</sup> August 2017



17/00573/FUL  
Wall Farm House  
99 Nantwich Road  
Audley



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**60 CLOUGH HALL ROAD, KIDSGROVE,**  
**MR PAUL SPENDER**

**17/00579/FUL**

The Application is for full planning permission for the retention of a change of use of the land to garden area and the erection of boundary wall and gates.

The application site is located on land designated as being within the North Staffordshire Green Belt and an Area of Landscape Restoration (policy N21), as indicated on the Local Development Framework Proposals Map.

**The statutory 8 week determination period for the application expires on the 13<sup>th</sup> September 2017**

## **RECOMMENDATION**

**PERMIT subject to the following condition;**

### **1. Removal of Permitted Development Rights for outbuildings**

#### **Reason for recommendation**

Whilst the proposal includes inappropriate development in the Green Belt it is considered that the impact on the openness of the Green Belt would be limited and the development would not conflict with the purposes of including land in Green Belt. Provided that permitted development rights are removed so the construction of outbuildings on the land can be strictly controlled the development has a minimal impact on the Green Belt. Such factors are considered to represent the very special circumstances necessary to justify the development. In these circumstances, planning permission should be granted

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

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

#### **KEY ISSUES**

The application seeks planning permission for the change of use of the area of land to garden. The application is retrospective as a boundary wall and gates have been erected on the land in question.

The area of land has previously belonged to the bowling club / cricket club to the north of the site. The land has now been sold to the applicant. The site lies within the open countryside which is designated as being within the Green Belt and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The key issues to consider as part of the development are as follows;

- Is the development appropriate development within the Green Belt
- Impact upon the character of the area
- If so, are any very special circumstances in place to outweigh harm to the Green Belt

#### **Is the development considered appropriate development in 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 National Planning Policy Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 90 sets out that certain other forms of development, than the construction of buildings, are not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt". These include engineering operations, but not the use of land.

Policy S3 of the Local Plan states that development for sport and recreation uses of a predominantly open character, whether formal or informal, or for other uses of land that preserve the openness of the area, may be located in the Green Belt so long as it does not disrupt viable farm holdings. It goes on to state that any buildings must be limited to those essential to the use and must be sited to minimise their impact on the openness of the Green Belt.

Whilst the wall is considered to be appropriate development the change of use of the land to garden is not, therefore the development must be considered as inappropriate development within the Green Belt. As such consideration must be given to whether there are any very special circumstances in favour of the development.

#### The impact on the character of the area

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 areas 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.

The extension of the garden onto the land and its enclosure is considered to be visually acceptable, and has been done in a manner similar to other properties in the locality without the benefit from planning permission but which are now immune from any enforcement action due to the passage of time. No landscape features have been lost. The proposal would not adversely affect the character of the area.

#### Very special circumstances in place to outweigh harm to the Green Belt

The area of land was previously in use for sport and recreational purposes in connection with the cricket/bowling club, and did not contain any built development. The applicant has enclosed the piece of land and brought it into curtilage of the property. The land now has a residential appearance, rather than an area of scrubland as before.

The development results in the enclosure of a relatively small area of land in a similar manner to that which has taken place to the rear of other properties on Clough Hall Road. Given the Green Belt boundary stops to the rear garden boundaries of Clough Hall Road it is considered that the change of use of the land would not result in any significant affect to the openness of the Green Belt. In addition the openness can be further protected by imposing a condition removing permitted development rights to ensure that no other building work takes place on the land without a planning application being made to the Planning Authority.

The applicant has stated that the area of scrub land used to attract anti-social behaviour, and that its enclosure has improved this situation greatly.

On balance, given the reasoning above and considering the use of appropriate conditions it is considered that the proposal can be supported

## **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 ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy T16: Development – General Parking Requirements  
Policy S3: Development in the Green Belt  
Policy N17: Landscape Character – General Considerations  
Policy N21: Areas of Landscape Restoration

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

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

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

[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 relevant to the application

Views of Consultees

**Kidsgrove Town Council** has not responded by the due date and as such it is assumed that they have no comments.

Representations

None received

Applicant/agent's submission

The requisite plans and application forms were submitted. These documents can be viewed on the Council's website;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00579/FUL>

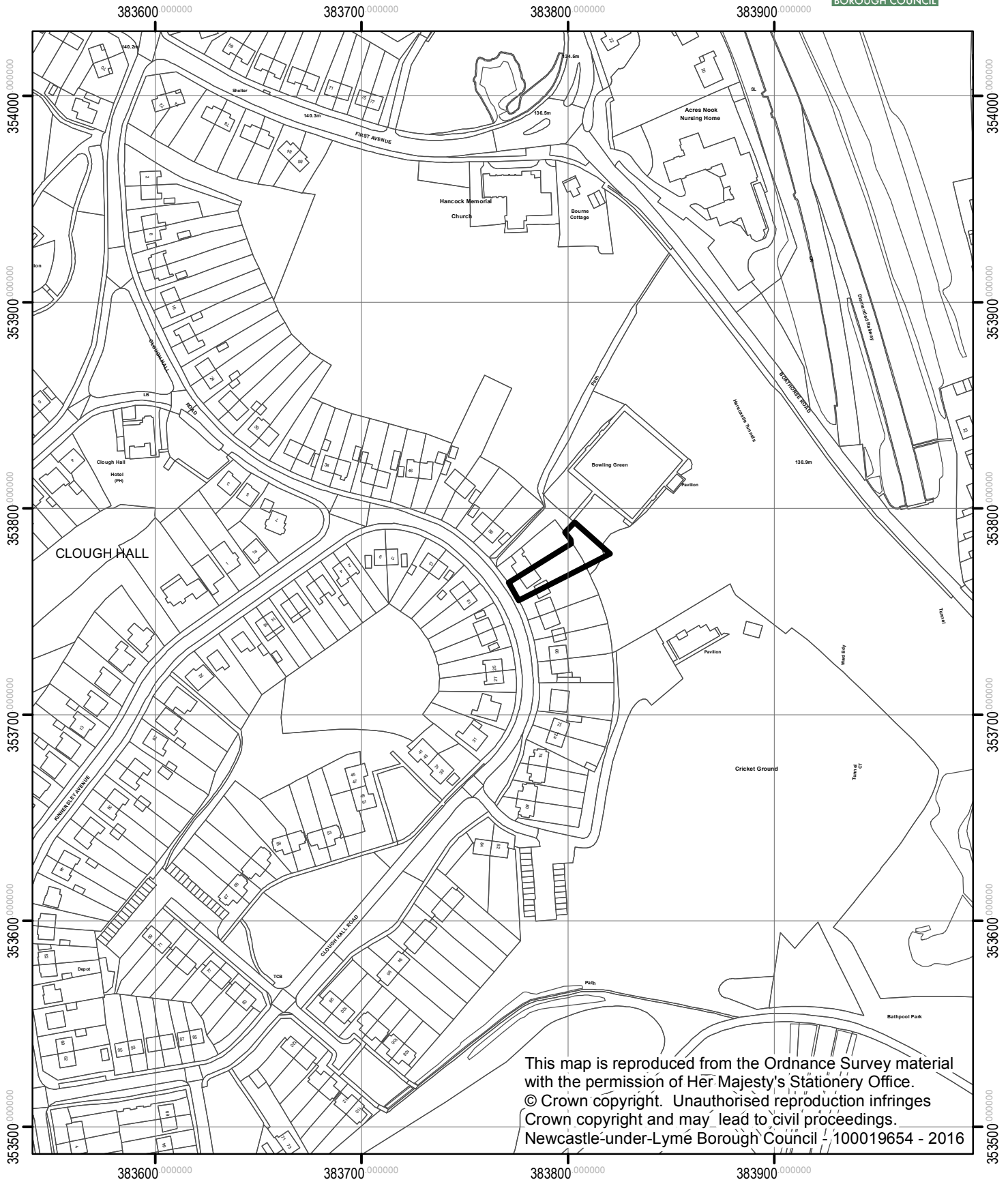
Background Papers

Planning File  
Development Plan

Date report prepared

30<sup>th</sup> August 2017

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## QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO

### Purpose of the Report

To provide Members with a quarterly report on the exercise by the Head of Planning of the authority to extend periods within which planning obligations can be secured by (as an alternative to refusal of the related planning application).

### Recommendations

**a) That the report be noted**

**b) That the Head of Planning continue to report, on a quarterly basis, on the exercise of his authority to extend the period of time for an applicant to enter into Section 106 obligations.**

### Introduction

The Committee, when resolving to permit an application subject to the prior entering into of a planning obligation, usually also agree to authorise the Head of Planning to extend the period of time for an applicant to enter into the Section 106 obligations if he subsequently considers it appropriate (as an alternative to refusing the application or seeking such authority from the Committee).

When this practice was first established it was envisaged that such an extension might be agreed where the Head of Planning was satisfied that it would be unreasonable for the Council not to allow for additional time for an obligation to be secured. It was recognised that an application would need to be brought back to Committee for decision should there have been a change in planning policy in the interim. It was agreed that your officers would provide members with a regular quarterly report on the exercise of that authority insofar as applications that have come to the Committee are concerned. The report does not cover applications that are being determined under delegated powers where an obligation by unilateral undertaking is being sought.

This report covers the period between 23<sup>rd</sup> May 2017 (when the Committee last received a similar report) and the date of the preparation of this report (30<sup>th</sup> August 2017).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent agreed extensions, and extensions have been agreed with respect to some 11 applications.

The Council needs to maintain a focus on delivery of these obligations – which can become over time just as important (to applicants) as achieving a prompt consideration of applications by Committee. In some cases applicants have however little immediate requirement to complete such obligations, being content to rest upon the resolution of the Committee. Expectations and requirements vary considerably. It is the issuing of the decision notice, rather than the consideration of the application by the Committee, which is the basis for the measurement of whether the decision has been made “in time” insofar as the speed of determination criterion for designation of poorly performing LPAs is concerned.

Furthermore Local Planning Authorities are required, as part of the Planning Guarantee, to refund any planning fee paid if after 26 weeks no decision has been made on an application, other than in certain limited exceptions, including where an applicant and the Local Planning Authority have agreed in writing that the application is to be determined within an extended period. This provides yet another reason for the Planning Service

maintaining a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

In cases where extensions of the period within which an obligation may be secured have been considered appropriate your Officer's agreement to that has normally been on the basis of that should he consider there to be a material change in planning circumstances at any time short of the engrossment of the final document he retains the right to bring the matter back to the Planning Committee. Applicants are also requested to formally agree a parallel extension of the statutory period within which no appeal may be lodged by them against the non-determination of the application, and in most cases that agreement has been provided. An application determined within such an agreed extended period, provided that agreement is obtained prior to the expiry of the existing statutory period, is defined by the government as one that has been determined as being determined "in time".

Details of the applications involved are provided below:-

**(1) 16/00902/DEEM4 Land off Deans Lane and Moss Grove**

This application, for outline planning permission for the erection of up to 50 dwellings, came before the Planning Committee on 6<sup>th</sup> December 2016 (at around week 5). The resolution of the Planning Committee included a time limit for the securing, by the 24<sup>th</sup> January 2017, of an undertaking regarding the provision of a planning obligation with respect to the provision of a visibility splay and an agreement providing obligations relating to on-site affordable housing, and payment of contributions towards public open space and education facilities.

Neither obligation was completed by the 24<sup>th</sup> January – in the case of the agreement due to delays on behalf of the Council as the Local Planning Authority in providing instructions, and accordingly it has been considered appropriate by your Officer to agree a number of extensions to the period within which the obligations can be completed by. These dates passed with limited progress. .

Given that the delay is on the Local Planning Authority's side (in providing the required instructions) it would be unreasonable to "time out" the application, and in the absence of any material change in planning circumstances, and the current position with respect to instructions to the County Solicitor, your Officer has agreed to further extend the period within which the Section 106 may be completed, to the 17<sup>th</sup> September. Renewed efforts are being made to progress the matter and a further report on progress may be able to be given to the meeting on the 12<sup>th</sup> September.

Some 42 weeks have now passed since receipt of the application.

**(2) Land off Eccleshall Road, Loggerheads. Newcastle Borough council. 16/00866/DEEM4**

This application, for outline planning permission for the erection of up to 55 dwellings, came before the Planning Committee on 2<sup>nd</sup> February (at around week 15). The resolution of the Planning Committee included a time limit for the securing, by the 3<sup>rd</sup> March 2017, of an undertaking regarding the provision of a S106 agreement providing obligations relating to on-site affordable housing, the provision and long-term management of on site public open space and payment of a contribution towards education facilities.

The undertaking was not completed by the 3<sup>rd</sup> March – in the case of the agreement due to delays on behalf of the Council as the Local Planning Authority in providing instructions, and accordingly it has been considered appropriate by your Officer to agree a number of further extensions to the period within which the obligations can be completed by.

Given that the delay is on the Local Planning Authority's side (in providing the required instructions) it would be unreasonable to "time out" the application, and in the absence of any material change in planning circumstances, and the current position with respect to instructions to the County Solicitor, your Officer has agreed to further extend the period within which the Section 106 may be completed, to the 17<sup>th</sup> September. Renewed efforts are being made to progress the matter and a further report on progress may be able to be given to the meeting on the 12<sup>th</sup> September

Some 44 weeks have now passed since receipt of the application.

**(3), (4) & (5) Barnes Hall, Keele University. University of Keele. 16/01014/FUL, Horwood Hall, Keele University. University of Keele. 16/01016/FUL & Lindsay Hall, Keele University. University of Keele. 16/01015/FUL**

These three full planning applications came before the Planning Committee on 21<sup>st</sup> March (at around week 16). Details of what the applications were for were contained within the agenda reports for that meeting

The resolutions of the Planning Committee, with respect to all three applications, included a time limit for the securing, by the 6<sup>th</sup> May 2017, of obligations relating to financial contributions towards travel plan monitoring, the provision of real-time travel information and a Toucan signal controlled crossing on Cemetery Road.

The 6<sup>th</sup> May passed without the completion of the Unilateral Undertaking but significant progress had been made and your Officer agreed to extend the period within which the planning obligation may be completed – to the 26<sup>th</sup> May. .

The 26<sup>th</sup> May passed without completion of the Unilateral Undertaking. Your Officer agreed to a further two week period for its completion and it was subsequently completed by the end of that period on the 9<sup>th</sup> June. The decision notice on the applications were issued "out of time" on the 13<sup>th</sup> June.

The decisions were issued in this case some 20 weeks after receipt of the applications.

**(6) Former Orme Centre Orme Road, Newcastle 16/00796/OUT**

This hybrid application for full planning permission for the conversion of the former Orme Centre into student accommodation, demolition of single storey toilet block and other attached buildings and red brick schoolroom; and outline planning permission for the erection of a new building to provide student accommodation came before the Planning Committee at its meeting on the 25<sup>th</sup> April (at around week 15). The resolutions of the Committee required obligations securing should there be no substantial commencement within 1 year of the grant of planning permission a review of the financial position and if viable payment of financial contribution of £93,408 towards public open space provision, £2,200 travel plan monitoring fee and a financial contribution of £50,000 to fund a Resident Parking Zone. The resolution included the provision that the agreement should be completed by the 6<sup>th</sup> June.

A further report came before the 20<sup>th</sup> June Planning Committee with the applicant asking that the 12 month period for substantial commencement be extended. Members resolved to allow an 18 month period and the agreement to be completed by the 14<sup>th</sup> July.

The 14<sup>th</sup> July passed without completion of the agreement. Taking into account the limited overrun and the absence of any material change in planning circumstances in the interim your Officer agreed to a further extension to the 20<sup>th</sup>. The agreement was subsequently completed on that date and the decision notice on the application was issued "in time" on the 26<sup>th</sup> July.

The decision was issued in this case some 28 weeks after receipt of the application.

**(7) 2-4 Marsh Parade, Newcastle 17/00179/FUL**

This application for full planning permission for the demolition of existing buildings and their replacement with a four storey apartment block containing 27 one bedroom apartments came before the Planning Committee at its meeting on the 25<sup>th</sup> April (at around week 8). The resolutions of the Committee inter alia required that obligations securing a financial contribution of £65,000 towards public open space provision and 25% affordable housing provision, if there has been no substantial commencement within 1 year of the grant of planning permission and a review of financial assessment of the scheme then demonstrates that such payments can be made either in full or in part. The resolution included the provision that the agreement should be completed by the 26<sup>th</sup> May.

There was a delay in Council lawyers circulating a draft agreement and in the absence of any material change in planning circumstances it was necessary for your officer to extend the period for completing the S106 to the 20<sup>th</sup> June.

The agreement was completed on the 20th June and the decision notice on the application was issued "in time" on the 23rd June.

The decision was issued in this case some 16 weeks after receipt of the application

**(8) Land East Of Home Farm, Keele Road, Keele 17/00193/FUL**

This application for full planning permission for the erection of a building to be used an Innovation and Leadership Facility came before the Planning Committee at its meeting on the 23<sup>rd</sup> May (at around week 11). The resolutions of the Committee inter alia required that obligations securing a financial contribution of £2,200 towards travel plan monitoring. The resolution included the provision that the agreement should be completed by the 7<sup>th</sup> July 2017.

The 7th July passed without completion of the agreement due to the applicant questioning the lawfulness of an obligation requiring a travel plan monitoring fee, the response to which also involved advice on the matter being obtained from the County Council. Having accepted the position the applicant, on advice from your officers, decided to secure the required obligation by means of a Unilateral Undertaking rather than by an agreement. Subsequently delays occurred in the completion of the Unilateral Undertaking and the applicant sought an extension of time and your Officer agreed to extend the deadline for the securing of the obligation to the 21<sup>st</sup> July. The agreement was subsequently completed on the 17th July and the decision notice on the application was issued "out of time" on the 26th July.

The decision was issued in this case some 20 weeks after receipt of the application

**(9) Former Jubilee Baths, Nelson Place, Newcastle 17/00252/FUL**

This application for the demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking came before the Planning Committee at its meeting on the 18th July (at around week 8). The resolutions of the Committee inter alia required that obligations securing a financial contribution of £228,892 towards public open space, travel plan monitoring fee of £2,200 and £50,000 to be used to fund Resident Parking Zones in the event that it has been demonstrated (through surveys secured by condition) that the development has resulted in on street parking problems. The resolution included the provision that the agreement should be completed by the 25th June.

The 25<sup>th</sup> June passed without completion of the agreement. An extension of the period within which the obligations could be secured, to the 13<sup>th</sup> July was granted by your Officer. That date passed and a further extension of the period to the 20<sup>th</sup> July was

agreed, and then one final one to the 21<sup>st</sup> July upon which date the obligations were secured by agreement

The decision notice on the application was issued “out of time” on the 24<sup>th</sup> July, some 17 weeks after receipt of the application.

#### **(10) Land around Wilmot Drive Estate 17/00281/FUL**

This application for full planning permission for the or the erection of 276 dwellings, public open space and associated infrastructure works came before the Planning Committee at its meeting on the 18<sup>th</sup> July (at around week 15). The resolutions of the Committee inter alia required that obligations securing a financial contribution of £60,000 towards a Multi-Use Games Area, £30,000 towards off site highway works, commuted off site affordable housing, travel plan monitoring fee of £6,430, an agreement for the long term maintenance of on site public open space, and the review of the financial assessment of the scheme and its ability to make additional contributions, if there has been no substantial commencement within 18 months of the grant of planning permission. The resolution included the provision that the agreement should be completed by the 25<sup>th</sup> August.

That date passed without the obligations being secured, but not as a result of delay on the applicants’ behalf. Having concluded that there had been no material change in planning circumstances, and noting the applicant wishes to speedily conclude the agreement, your Officer has agreed to extend the Section 106 period to the 22<sup>nd</sup> September

Some 21 weeks have now passed since receipt of the application

#### **(11) Orchard House and 35 Clayton Road 17/00194/OUT**

This 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 came before the Planning Committee on 18<sup>th</sup> July (at around week 19). The resolution of the Planning Committee included a time limit for the securing, by the 18<sup>th</sup> August 2017, of an undertaking regarding the provision of a planning obligation with respect to the provision of 25% on-site affordable housing and a financial contribution towards off-site public open space.

The date for the completion of the Section 106 was always challenging given the timescales involved and whilst a draft agreement is now in circulation it has been necessary for your Officer to agree an extension of time for the completion of the agreement to the 7<sup>th</sup> September. A further update will be given if one is available prior to the meeting.

Some 25 weeks have now passed since receipt of the application.

Date Report prepared

30<sup>th</sup> August 2017

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## **List of Local Validation Requirements for planning and listed building consent applications**

### **Purpose of the Report**

The purpose of this report is to seek approval of a revised List of Local Validation Requirements for the following reasons:-

- The existing List of Local Validation Requirements was published almost two years ago and must be reviewed if it is to continue to form part of the validation of planning applications process from 1<sup>st</sup> October 2017.
- To ensure that the approved List of Local Validation Requirements reflects changes to statutory requirements, policies in the National Planning Policy Framework and the Development Plan, or published guidance following the publication of the current list.
- To provide applicants with more certainty as to what will be required when submitting a planning/listed building consent application,
- To enable the Council as the Local Planning Authority to make proportionate requests for additional information to assist in the consideration of development proposed within a planning/listed building consent application, and
- To enable the Council to refuse to register an application which is not supported by information that is identified on the List of Local Validation Requirements as being necessary in the consideration of the development proposed.

### **Recommendation**

**That Committee approves the revised List of Local Validation Requirements, to be circulated before the meeting, for publication on its website and use in the validation process.**

### **Reasons**

A revised List of Local Validation Requirements (LLVR) has been prepared by your Officer and is in the process of being amended in response to comments received through consultation. The adoption of such a List will enable the Council to continue to require the provision of information, over and above the submission of application forms, certificates of ownership and plans (i.e. the national validation requirements), to support a planning application for the purposes of validation.

## **1.0 Introduction**

- 1.1 The purpose of this report is to advise members of revisions to the LLVR reflecting changes to policy and in response to comments received through consultation; and to seek Committee approval of the List so that it can be published on the Council's website and become part of the validation process. A copy of the revised List will be circulated before the meeting which includes all amendments arising from the consultation (as the consultation period had not ended when this report was prepared)

## 2.0 Background

2.1 Validation simply represents a decision by a local planning authority as to what information must be provided within an application prior to the determination as to whether to grant or refuse planning permission/listed building consent. A 'valid' application is not necessarily an acceptable application. Since 6<sup>th</sup> April 2008, when mandatory standard planning application forms were introduced, national statutory requirements for validating applications have been in place. At the same time an option was introduced for local planning authorities to adopt a List of additional 'local' requirements as part of the process of validating applications. The Borough Council has, since 1<sup>st</sup> October 2011, published such a LLVR. Local Validation requirements only apply to applications for planning permission, they do not apply to applications for the approval of the reserved matters of an outline planning permission.

2.2 Current guidance on local validation requirements is set out in national Planning Practice Guidance (PPG) under the heading '[local validation requirements](#)' in the 'Making an application' section. It indicates that anything that is specified on a local list must be

- reasonable having regard, in particular, to the nature and scale of the proposed development, and
- about a matter which it is reasonable to think will be a material consideration in the determination of the application.

2.3 The key purpose of stipulating what a planning application must comprise is to ensure its validity and so LPAs have up front the information that is essential for a sound, timely and confident decision. It also means that statutory consultees and other third parties who look at and comment on applications can have a better understanding as to what permission is being sought, and what the impacts (both positive and negative) are likely to be.

2.4 The Town and Country Planning (Development Management Procedure) (England) Order 2015 reiterates the requirement the effect of which is that for a LLVR to carry any weight and form part of the validation process it must have been published or republished during the 2 years period immediately before the date the planning application is made.

2.5 With respect to applications for listed building consent the LPA can similarly publish on its website a list of its Local requirements, and if it has done so it can then require the submission of an item of information as a requirement of validation. The Borough Council has used a single list to cover both applications for planning permission and listed building consent and the intention is to continue to do so. Although there is no statutory requirement to regularly review the Local List of information requirements for Listed building consent applications the opportunity has been taken to do so

## 3.0 The List of Local Validation Requirements

3.1 It is important to note that if an application submitted lacks the necessary information specified in the Council's List, the Council will be entitled to invalidate the application and so decline to determine it, but it will still need to take a **proportionate** approach when validating, so that applications are not rendered invalid by the omission of an item of information that would add little to the Council's understanding of the development proposal. Pre-application discussion is strongly encouraged so that where possible the information sought by the Council at application stage is proportionate to the nature of the



scheme, and if applicants do not agree with the Council's requirement or an item, they are encouraged to discuss it with the Council.

- 3.2 It is important to note that the quality of the information submitted has no bearing on the decision as to whether the application is a valid one. Applicants are encouraged to submit information to a good standard, and the Council does have the ability to request clarification and further information during the determination process. Procedures are in place within the Council to ensure that officers at an appropriately senior level are involved where disagreements with an applicant about the validity of an application arise, and training has been and will continue to be provided to all officers involved in the validation process.
- 3.3 A validation dispute process was introduced in 2013 together with the ability to appeal against non-validated applications after the normal determination period ends. At an appeal if the Inspector considered that the Authority had unreasonably concluded that further information was required in support of the application and unnecessarily delayed the decision, an award of costs could be made against the Authority. To date no appeals have been lodged on this basis.

#### **4.0 Consultation Process**

- 4.1 The consultation on the draft revised LLVR agreed by the Planning Committee at its meeting on the 15<sup>th</sup> August is taking place over a period of 3 weeks ending on 8th September . The Authority wrote to 38 agents and 22 of the groups and bodies that are consulted as part of the determination of planning applications (consultees) and the Parish/Town Councils. In addition a notice was placed in the Sentinel. The draft revised List of Local Validation Requirements and details of the consultation were published on the Council's website and comment was invited.
- 4.2 The main change proposed is the introduction of the requirement to provide a lighting assessment to the List of LVR for certain application types if external lighting is proposed.
- 4.3 Other changes proposed involves updates to existing local validation requirements and the removal of guidance in the 'where to look for further assistance' which is no longer in place, and the addition of further guidance which has been identified.
- 4.4 The consultation period had not ended at the time this report was prepared and it will therefore be necessary to report any further comments that may be received by means of a Supplementary Report. The Council has, however, received 4 responses from consultees to date.
- 4.5 The comments received to date and your officer's suggested response to them are summarised in the Table attached at Appendix 1. Amendments reflecting the suggested responses received to date have been made to the original draft and the proposed final document will be circulated within a Supplementary report, with all amendments arising from the consultation process highlighted in grey, prior to the Committee meeting.

#### **6.0 Next Steps**

- 6.1 Once the List has been approved it will be necessary to publish it on the Council's website and at that point it will become part of the validation process. This must be done before 1<sup>st</sup> October 2017.

#### **Background Papers**

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

[Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

Date report prepared 29<sup>th</sup> August 2017

Consultee	Comments received	Proposed response/ action
Loggerheads Parish Council	<p>1. At 1. Affordable Housing - the proposed change of wording for the rural area makes it less easy to understand than current, would prefer to see it stay the same.</p> <p>2. Support the change to 8. Heritage Assets</p> <p>3. The document does not have any reference to Neighbourhood Plans. Loggerheads should have one adopted in 2018 and other rural parishes are now working on their Neighbourhood Plans. Depending on when the next revision of the validation list is planned, some reference to Neighbourhood Plans would seem relevant.</p> <p>4. It would be extremely helpful if a pro-forma could be introduced for at least all major planning applications which allows the planning officer to demonstrate that the validation list has been applied. The pro-form would allow the planning officer to tick each criterion to show that the application reaches the standards required for validation. This would need to be put on the website with the other application papers.</p>	<p>1. The wording in the current LLVR does not reflect the national policy which was set out in the written ministerial statement of 28<sup>th</sup> November 2014. The statement indicates that contributions should not be sought from developments of 10 units or less, <b>and</b> which have a maximum combined gross floorspace of no more than 1,000m<sup>3</sup>. Therefore it does require amendment. An acceptable, policy compliant, compromise would be to word it as follows <i>Rural area – developments for 10 dwellings or more and which have a combined gross floorspace of more than 1,000m<sup>3</sup>.</i></p> <p>2. Noted.</p> <p>3. It would not be appropriate to include reference to Neighbourhood Plans at this stage, prior to such Plans being adopted. The lack of reference to Neighbourhood Plans would not affect the weight that can be given to them in the determination of planning applications as they will become part of the Development Plan. Reference will be included when the LLVR is next reviewed, and consideration will be given as to whether this should be done earlier than 2 years from now.</p> <p>4. This is not a suggestion as to how the LLVR should be amended, and it would not be appropriate to include such a requirement on the LLVR given that it relates to the Council's handling of applications whereas the LLVR role is to stipulate, to the applicant, what information must be included within a planning submission. A validation checklist is completed in the back office system, but this is not in a form that could be published. In some cases an additional validation pro-forma type checklist is completed for major development proposals. Consideration will be given to the merits of producing and publishing such a list for all such cases and whether this would be worthwhile bearing in mind the resources that would be required. There is no legal requirement to publish such completed checklists.</p>
Environment Agency (EA)	<p>1. Under 4. Biodiversity Survey and Report – welcome the requirement for a survey to be undertaken when <i>within 50m of rivers, streams, canals, lakes, swamps, reedbeds or other aquatic habitat</i>. It would be appropriate to include some reference to the Water Framework Directive (WFD), which requires that all waterbodies meet Good Status, and does not allow any deterioration. Habitat potential and ecology is key to meeting these requirements and should be assessed as part of any biodiversity report on a river, stream or canal. The Environment</p>	<p>1. Agreed – reference to the Water Framework Directive will be included at information item 4 and links to the information provided by the EA on how to complete a WFD risk assessment will be added.</p>

	<p>Agency provides further information on how to complete a WFD risk assessment for proposed development that include flood risk activities and channel modifications.</p> <p>2. Support the detailed reference to the required of a Flood Risk Assessment (FRA) and the associated requirements of the Sequential and Exceptions Tests at 7. The developer will be required to liaise directly with the Council on the undertaking of these tests, and it may be worth flagging this up.</p> <p>3. Strongly recommend that the Sequential Test is undertaken, prior to any detailed FRA as it may be that the principle of the development is unacceptable to the Council and unnecessary cost could be avoided. It would be worthwhile to highlight how this work should be done prior to a detailed FRA, and may therefore be prudent to put the requirements for the Exception and Sequential Test at the start of this section, before the FRA requirements.</p> <p>4. The updated link to the Flood Maps should be included.</p> <p>5. No requirements have been specified for the submission of information relating to the management of foul waste (a material planning consideration). This should be included as this links to paragraphs 109 and 120 of the NPPF. Non-mains drainage falls under the EA's remit and they require that any such proposals ensure they do not pose an unacceptable risk of pollution to the water environment. The NPPG states that the presumption for foul drainage systems should be as follows.</p> <ul style="list-style-type: none"> <li>1) Connection to a public sewer</li> <li>2) Connection to a package sewage treatment plant</li> <li>3) Connection to a septic tank</li> </ul> <p>Options 2) and 3) should only be considered if it can be clearly demonstrated by the developer that a connection to a public sewer is not feasible.</p> <p>6. Recommend that Severn Trent Water Ltd are consulted to ensure that their requirements are covered for the connection of new developments into the existing foul main sewer system.</p>	<p>2. Agreed – the need to liaise directly with the Council prior to undertaking the Sequential and Exceptions Test will be added at information item 7.</p> <p>3. Agreed – a recommendation that the Sequential Test is undertaken prior to any detailed FRA will be included in information item 7.</p> <p>4. Agreed – the up to date link will be included.</p> <p>5. Agreed – an additional information item relating to the management of foul waste will be added.</p> <p>6. Severn Trent Water (and United Utilities) have been consulted. A response has not yet been received.</p>
<p>Network Rail (NR)</p>	<p>1. They advise that they are a statutory consultee for</p> <ul style="list-style-type: none"> <li>(a) Any planning applications within 10m of relevant railway land (as the Rail Infrastructure Managers for the railway, set out in Article 16 of the Development Management Procedures Order) and</li> </ul>	<p>1. The LPA were aware of this and this is noted – no amendment required.</p>

	<p>(b) For any development likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing a railway (as the Rail Networks Operators, set out in Schedule 4(J) of the Development Management Procedure Order); in addition it is a requirement to consult the Office of Rail and Road (ORR)</p> <p>2. Transport Assessments (23) should include consideration of the impact of proposals upon level crossing(s) with mitigation implemented as required. NR encourage the Council to adopt specific policy wording to ensure that the impact of proposed new development (including cumulative impact) on the risk at existing level crossings is assessed by the developer and suitable mitigation incorporated within the development proposals and fully funded by the developer. The consideration of the impact upon level crossings should therefore be included as part of the Transport Assessment requirements.</p> <p>3. Consideration should be given, with Transport Assessments to increased footfall at Railway Stations as a result of proposals for new dwellings and employment areas. Location of the proposal, accessibility and density of the development, trip generation data should be considered in relation to the railway stations within proposals. Where proposals are likely to increase footfall at railway stations the LPA should consider developer contributions to provide funding for enhancements at stations as a result of increased numbers of customers. Consideration of the impact upon railway stations should therefore be included as part of the Transport Assessment requirements.</p> <p>4. Proposals for open spaces, public open areas, Locally Equipped Areas for Play etc (at 14) should include requirements for trespass proof fencing if the proposal is adjacent to the operational railway. This is to prevent unauthorised access on the railway by increased numbers of people, including minors, at these sites.</p> <p>5. Where proposals are adjacent to the operational railway, consideration within FRAs (7) should include the potential to increase the risk of flooding, pollution and soil slippage on the railway. Sustainable drainage systems must carry surface waters/foul waters away from the railway. Attenuations ponds and basins will require NR review and agreement.</p>	<p>2. There are no level crossings within the Borough and as such the suggested amendment is not agreed as it is not necessary.</p> <p>3. Agreed - reference to need to address, within Transport Assessments, consideration of the impact of increased footfall on Railway Stations arising from development to be added.</p> <p>4. Agreed – reference to the need to provide appropriate fencing where public open space is adjacent to the operational railway to be added.</p> <p>5. Agreed – inclusion of the requirement to consider any increase in risk of flooding, pollution and soil slippage on the railway within FRAs to be added.</p>
Waste Management Section	<p>1. It would make it clearer to developers of major and other projects about the need to have appropriate waste/recycling arrangements if the site waste arrangements and post-construction arrangements, when the</p>	<p>1. Agreed – the reference to the need to make provision for waste collection to be removed from information item 17 ‘Site Waste Management Plan for non-waste related development, title changed to ‘Construction</p>

	<p>site is in use, are divided into separate sections.</p> <p>2. There is little reference to collection services from domestic properties which causes problems especially the small scale infill developments that are coming through at the moment.</p> <p>3. The list contains a link to the Waste Management Planning Practice Guidance Note which is now very out of date containing reference to requirements relating to the services that were offered in 2008. The document needs a rewrite.</p>	<p>Waste Management Plan' and new information item included titled 'Waste and Recycling Management'.</p> <p>2. Agreed – the new information item 'Waste and Recycling Management' to relate to all residential development.</p> <p>3. The link to the Practice Guidance Note will be removed given that it does not relate to a service that is now offered. The request that the document is rewritten will be passed to the Planning Policy Section for their consideration, but it is unlikely, in the context of the demand upon that section relating to the Joint Local Plan, to be considered to be a priority</p>
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