

# Public Document Pack

**Date of meeting** Thursday, 1st February, 2018  
**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

## 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 5 - 8)  
To consider the minutes of the previous meeting(s).
- 4 APPLICATION FOR MAJOR DEVELOPMENT - SCHOOL OF MEDICINE, KEELE UNIVERSITY. KEELE UNIVERSITY. 17/00899/FUL** (Pages 9 - 14)
- 5 APPLICATION FOR MAJOR DEVELOPMENT - THE HAWTHORNS, KEELE VILLAGE AND BARNES, KEELE CAMPUS, KEELE. KEELE SEDDON LTD. 17/00953/FUL** (Pages 15 - 22)
- 6 APPLICATION FOR MAJOR DEVELOPMENT - LAND BOUND BY RYECROFT, RYEBANK, MERRIAL STREET, CORPORATION STREET & LIVERPOOL ROAD.HDD (NEWCASTLE-UNDER-LYME) LIMITED. 17/00637/FUL** (Pages 23 - 28)
- 7 APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF MEADOW WAY, BALDWIN'S GATE. BELLWAY HOMES LTD (WEST MIDLANDS) . 16/01101/FUL** (Pages 29 - 34)
- 8 APPLICATION FOR MINOR DEVELOPMENT - 58, ABBOTS WAY, WESTLANDS. MRS MARGARET COUPE. 17/00906/FUL** (Pages 35 - 44)

- 9 APPLICATION FOR MINOR DEVELOPMENT - STONE QUARRY BARN, HIGH STREET, ALSAGERS BANK. MR S EVANS. 17/00750/FUL (Pages 45 - 52)
- 10 APPLICATION FOR MINOR DEVELOPMENT - FIELD RISE, ACTON LANE, ACTON. MR CRAIG JONES. 17/00790/FUL (Pages 53 - 60)
- 11 APPLICATION FOR OTHER DEVELOPMENT - 11 GALLOWS TREE LANE, NEWCASTLE. MR W ALMASHTA. 17/00886/FUL (Pages 61 - 68)
- 12 APPLICATION FOR OTHER DEVELOPMENT - 34 BRAMPTON ROAD, MAY BANK. MR BARROW. 17/00976/FUL (Pages 69 - 76)
- 13 APPLICATION FOR OTHER DEVELOPMENT - OLD PEEL FARM, NANTWICH ROAD, AUDLEY. MR PETER ADAMS. 17/00842/FUL (Pages 77 - 84)
- 14 APPEAL DECISION - 3 DALES GREEN ROAD, ROOKERY, KIDSGROVE (Pages 85 - 88)
- 15 TREE PRESERVATION ORDER - LAND AT MANDALAY, TOWER ROAD, ASHLEY HEATH. TPO 188 (Pages 89 - 92)
- 16 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, 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.

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**PLANNING COMMITTEE**

Wednesday, 3rd January, 2018  
Time of Commencement: 7.00 pm

**Present:-** Councillor Chris Spence – in the Chair

Councillors Burgess, S Hambleton, Holland, Matthews, Naylor, Northcott, Panter, Reddish, Simpson, Sweeney, S Tagg, G White, G Williams, J Williams and Wright

Officers Helen Beech, Guy Benson and Geoff Durham - Member Training and Development Officer

Apologies Councillor(s) Fear, Heesom and Proctor

**1. APOLOGIES**

Apologies were received from Councillors' Fear, Heesom and Proctor.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

**3. JOINT LOCAL PLAN PREFERRED OPTIONS CONSULTATION DOCUMENT**

Consideration was given to a report advising Members on the completion and outcome of the public consultation on the 'Strategic Options stage of the Joint Local Plan. Also to provide an update on the plan-making process and to seek the support of the Planning Committee to go out to public consultation on the Preferred Options consultation document in line with the adopted Statement of Community Involvement.

The Council's Planning Policy Manager, Mrs Helen Beech gave a presentation to Members in respect of the Joint Local Plan Preferred Options Consultation Document prior to members being asked for their comments.

Councillor Hambleton asked if more supported and up to date evidence had been received as a site in Clayhanger Close was now included which had previously been deemed unsafe.

Mrs Beech stated that this was a consultation document with preferred sites going out to consultation. If anyone felt that any sites were not appropriate, the reasons should be made known to officers and the information would be taken into consideration.

Councillor Reddish thanked Mrs Beech and her team for the work that had been carried out. In addition, Councillor Reddish stated that more information was required on a Masterplan for travel for the proposals in Keele.

Councillor Reddish also stated that the University site was not developing as quickly as people had expected and asked, if this was an issue, how would the masterplan be affected and would there be a lot of unsold houses?

Mrs Beech agreed that some transport modelling was required and stated that the Local Plan needed to be accompanied by a Masterplan. One had been commissioned but was still ongoing. The Local Plan would also need to be accompanied by an Infrastructure Delivery Plan.

With regard to the University site, Plans were fully set out in the 'Keele Deal' which would see significant expansion of the University site.

Employment land needs to be made available so that jobs can be provided. It makes sense to provide housing in a location that has strong links with the Science and Innovation Park. The houses that would be provided would not entirely be for the University workforce although it would provide the opportunity to live nearby.

Councillor Naylor thanked Mrs Beech for the work that had been done on the document and raised concerns regarding the transport situation in Keele. In addition, Councillor Naylor, referring to the Keele Golf course site, asked if we had to go to the Secretary of State to have land taken out of the Green Belt as a whole or would just portions be taken out?

Members were advised that the boundary would be changed through the Joint Local Plan and it would have to demonstrate, at examination, that there were exceptional circumstances to do so.

The proposed Keele development would cover three sites, not solely the golf course.

Councillor Northcott wished to see a firmer commitment for the ageing population in respect of 'step down' properties – people moving into more urban locations. There is a need to let people know that we will listen to their concerns.

- Resolved:**
- (i) That the responses to the consultation exercise carried out on the Strategic Options Consultation Document, as detailed in the Strategic Options Consultation and Responses Document (Supporting Document 1), & summarised in the draft Preferred Options Consultation document, be noted.
  - (ii) That it be recommended to Cabinet to approve the publication of the draft Preferred Options Consultation document (Appendix 1) for public consultation purposes, in line with the methods of consultation set out in the adopted Statement of Community Involvement.
  - (iii) That a report be submitted to a subsequent meeting of the Committee on the results of the Preferred Options public consultation exercise, as part of the next stage of the Joint Local Plan process – Draft Plan late Autumn 2018.

#### **4. URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR CHRIS SPENCE**  
**Chair**

Meeting concluded at 8.45 pm

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**SCHOOL OF MEDICINE, KEELE UNIVERSITY**  
**KEELE UNIVERSITY**

**17/00899/FUL**

The application seeks planning permission to vary condition 2 of planning permission 15/00583/FUL, which granted planning permission for a two storey extension and basement at the rear of the building. Condition 2 lists approved drawings and the proposal seeks to substitute amended plans relating to landscaping proposals to include a revised swale bed.

The site of the building and where the proposed landscaping is to take place lies outside of, but near to, the Grade II Registered Parkland.

The 13 week period for the determination of this application expires on 13<sup>th</sup> February 2018.

## **RECOMMENDATION**

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

- 1. A condition varying condition 2 in the manner now sought by the applicant as indicated above.**
- 2. All other conditions associated to permission 15/00583/FUL as varied by 16/00164/FUL and 16/00306/FUL that continue to apply.**

## **Reason for Recommendation**

The revisions sought to the approved plans are acceptable in appearance and accords with national and local policy regarding design.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

## **Key Issues**

The application seeks to vary condition 2 of the permission, which listed the approved plans, following the granting of full planning permission for an extension to the building in 2015. Given that the development has already been carried out this is an application submitted pursuant to Section 73A of the Town and Country Planning Act 1990.

The proposals involve amendment to the approved landscaping within the grounds of the building along the road frontages and at the corner of the plot where it adjoins the roundabout. Currently the area is grassed, with a small swale extending along the boundary close to the pavement which includes a fenced headwall at one end. There is currently a group of trees at the corner adjoining the roundabout and shrub beds part way along the two road frontages.

The proposal seeks to form a drainage ditch, or swale bed, as an amendment to the existing swale bed. The proposal includes a headwall at both ends and areas where water will collect. Aquatic planting is proposed within the ditch base and plants that are suitable for damp/wet conditions are to be situated on the edge of the standing water. Areas of deterrent planting are proposed around the head wall, the larger of which will be fenced in the interests of safety. The existing group of trees at the corner are retained within the scheme.

The proposed landscaping associated with the works will provide more visual interest at this prominent location at the main entrance to the University and is considered to be visually acceptable. No issues, other visual amenity, are raised by the proposal.





## **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 \(NPPF\) \(2012\)](#)

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

### **Relevant Planning History of David Weatherall building**

01/00874/FUL	Proposed medical school and primary care science research centre	Permitted 2001
12/00383/FUL	Single storey rear extension, two storey side extension and first floor side extension.	Permitted 2012
13/00634/FUL	First floor extension	Permitted 2013
14/00953/FUL	Erection of a single storey extension and new canopy over existing service yard	Permitted 2015
15/00583/FUL	Two storey extension and basement, to rear of David Weatherall Building to extend existing research facility.	Permitted 2016
16/00164/FUL	Variation of condition 2 of planning permission 15/00583/FUL to include drawings 14639/SK/300, 14639/SK/302 and 0875-38 to allow proposed addition of condensing units to the roof	Permitted 2016
16/00306/FUL	Variation of condition 5 relating to permanent car park of planning permission 15/00583/FUL for the erection of two storey extension and basement.	Permitted 2016

### **Views of Consultees**

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

**Keele Parish Council** and the **Gardens Trust** have not responded by the due date, and so must be assumed to have no comments on the proposal.

### **Representations**

None received by the due date.

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

The application documents, which include a Supporting Statement, are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00899/FUL>

### **Background papers**

Planning files referred to  
Planning Documents referred to

Date report prepared

16<sup>th</sup> January 2018



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**THE HAWTHORNS, KEELE VILLAGE AND BARNES, KEELE CAMPUS, KEELE  
KEELE SEDDON LTD** **17/00953/FUL**

The application seeks to vary conditions 2, 4, 20 and 22 of planning permission 15/01004/FUL which granted permission for the demolition of certain buildings at the Hawthorns and construction of student accommodation at Keele University Campus and residential development at The Hawthorns in the village of Keele. The conditions relate to the residential development at the Hawthorns. Condition 2 lists the approved drawings and the variation sought seeks to substitute amended plans to allow for amendments to the siting of some of the dwellings within their plots along with some elevational changes. The other conditions refer to the timing of the provision of site accesses and of contaminated land site investigations and remediation.

The site is washed over by the Green Belt and lies within an Area of Landscape Maintenance as identified within the Local Development Framework Proposals Map. The south-eastern part of the site is within the Keele Village Conservation Area and a number of trees on the site are the subject of Tree Preservation Orders (TPOs).

The 13 week period for the determination of this application expires on 26<sup>th</sup> February 2018.

## **RECOMMENDATION**

**(A) Subject to the applicant entering into a planning obligation by 1<sup>st</sup> March 2018 that preserves the Council's position in respect of obligations secured prior to the grant of permission 15/01004/FUL, PERMIT the variation of condition 2 to list the revised plans and the variation of conditions 4, 20 and 22 of 15/01004/FUL so that they read as follows:**

**4. No dwelling shall be occupied until the access serving that dwelling has been provided in accordance with Drawing No. 0377-01.**

**20. In accordance with the Phase I and Phase II Site Investigations, a further investigation and risk assessment post demolition shall be submitted and approved by the Local Planning Authority to assess the nature and extent of any contamination on the site. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the remainder of the development. The report of the findings shall include:**

**a. A survey of the extent, scale and nature of any contamination;**

**b. An assessment of the potential risks to:**

- **Human health;**
- **Property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes;**
- **Adjoining land;**
- **Ground and surface waters;**
- **Ecological systems; and,**
- **Archaeological sites.**

**c. An appraisal of remedial options, and proposal of the preferred option(s).**

***This work shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.***

**22. The remediation scheme shall be carried out in accordance with the approved details. Following completion of the remediation measures a verification report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the timetable of works agreed as part of Condition 21.**

**and subject to the imposition of all other conditions attached to planning permission 15/01004/FUL that remain relevant at this time.**

**(B) Should the matters referred to in (A) 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 obligations, there would be insufficient provision for additional secondary education places to meet the need for such places generated by the development, account would not be able to be taken of a change in market conditions, a development that could have made required contributions (to primary school places and affordable housing) would not do so, and appropriate long term arrangements would not have been made for the public open space within the development; or, if he considers it appropriate, to extend the period of time within which such obligations can be secured.**

## **Reason for Recommendation**

The minor amendments to the siting and elevations of the dwellings would have no adverse impact on the character and appearance of either the Conservation Area or the village and there would be no adverse impact on the trees.

There would be no adverse impact on highway safety or the future users of the land and neighbouring land due to ground contamination as a result of the variation in the wording of the other conditions.

The effect of a grant of approval is to create a new planning permission. The previous permission was only granted following the entering into of a Section 106 agreement securing a number of matters, all of which remain relevant and would require a further obligation to be entered into to ensure that these matters continue to be secured.

Subject to this and the imposition of the same conditions as were imposed on 15/01004/FUL that remain relevant at this time it is not considered that there are any adverse impacts of the development that would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

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

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

**Key Issues**

The application seeks a variation of conditions 2, 4, 20 and 22 of planning permission 15/01004/FUL which granted permission for the construction of student accommodation at Keele University Campus and residential development at The Hawthorns in the village of Keele. The conditions relate to the residential development at the Hawthorns which comprises 83 dwellings.

In October last year, the Planning Committee resolved to grant planning permission for the variation of Conditions 4, 20 and 22 (Ref. 17/00646/FUL) which refer to the timing of the provision of site accesses and of contaminated land site investigations and remediation. The resolution to permit the variation of those conditions was subject to the applicant entering into a planning obligation. The obligation is yet to be completed and therefore that application is not yet approved. There has been no change in planning circumstances since the previous application was considered and therefore it is not necessary to consider those conditions again.

Condition 2 lists the approved drawings and the variation sought seeks to substitute amended plans to allow for amendments to the siting of some of the dwellings within their plots along with some elevational changes.

The site is washed over and surrounded by the Green Belt and lies within an Area of Landscape Maintenance as identified within the Local Development Framework Proposals Map. The south-eastern part of the site is within the Keele Village Conservation Area and a number of trees on the site are the subject of Tree Preservation Orders (TPOs). The site is bounded to the east by Quarry Bank Road and to the north-west is open farmland.

It is not considered that the changes proposed would have any material impact on the openness of the Green Belt and therefore, the main issues for consideration in the determination of this application are:

- Do the proposed amendments have any adverse impact upon the character and appearance of the village and in particular, the Conservation Area?
- Does the proposed development have any significant adverse impact on the trees on the site?
- Is a planning obligation required?

**Do the proposed amendments have any adverse impact upon the character and appearance of the village and in particular, the Conservation Area?**

Amendments are proposed to primarily three house types (Ackworth, Chelford and Mottram) on approximately 20 plots. The amendments include minor changes to the footprints of the dwellings to accommodate alterations to internal layout, changes to fenestration, and the addition of areas of

render. Minor amendments are proposed to parking, garages and positioning of dwellings within the plots and amendments are proposed to all house types to include full stone surrounds to windows on front elevations, brick soldier courses to side and rear elevations and increased window heads on front elevations. In addition, substitutions of housetypes are proposed on 21 plots across the site. The latter changes are mainly like for like, i.e. a 5-bedroom property to another 5-bedroom property.

Regarding the revised plans as originally submitted, concerns were raised that the layout of the dwellings to the north of the site which on the approved scheme was varied in terms of the positioning and orientation of the dwellings, had been revised to the detriment of the character of the village and the surrounding area. The revised layout proposed a more regimented line of dwellings and your Officer was concerned that the variety and interest that reflects more the character and appearance of the village was to be lost. Amended plans have been received which introduce some variety back into the layout of those dwellings and it is considered that the proposed changes are acceptable in terms of their impact upon the character and appearance of the village.

Both the Conservation Officer and the Conservation Advisory Working Party (CAWP) have raised no objections to the revised plans and it is not considered that the proposed amendments would have any adverse impact on the character and appearance of the Conservation Area.

Does the proposed development have any significant adverse impact on the trees on the site?

There are a significant number of mature trees on the site, many of which are the subject of a Tree Preservation Order (No. 140). A number of the trees covered by the TPO are within the Conservation Area.

There are instances where dwellings have been moved closer to existing trees, and in relation to the plans as originally received, the Landscape Development Section (LDS) raised a number of concerns regarding the relationship of some plots with existing trees and open space as well as post development resentment of trees leading to pressure for the felling or pruning of trees. Amended plans have been received which seek to address the concerns of the LDS. The LDS has no objections to the revised scheme and subject to the imposition of conditions it is not considered that an objection could be sustained on the grounds of impact on trees.

Is a planning obligation required?

In law the consequence of the granting of an application to vary a condition of a planning permission would be the creation of an entirely new planning permission rather than an amendment of the existing one. The previous permission was granted on the 5<sup>th</sup> April 2016 following the completion of a Section 106 agreement which included the payment of an education contribution to secondary places, a requirement for a financial reappraisal should the development not be substantially commenced within 12 months of the date of the planning permission (i.e. by 4<sup>th</sup> April 2017), and the payment of such policy compliant contributions as could be afforded towards primary education and offsite affordable housing provision.

The substitutions of housetypes and amendments to housetypes may impact on the viability of the scheme, but given that the 4<sup>th</sup> April has passed, a further appraisal upon substantial completion would be required in any event. Changes in viability associated with the changes to house types would be factored into that appraisal.

Subject to the applicant entering into a Section 106 agreement as outline above, the Council's interests would be protected.



## **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  
Policy CSP2: Historic Environment  
Policy CSP4: Natural Assets  
Policy CSP10: Planning Obligations

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

Policy S3: Development in the Green Belt  
Policy N12: Development and the Protection of Trees  
Policy N13: Felling and Pruning of Trees  
Policy N17: Landscape Character – General Considerations  
Policy N19: Area of Landscape Maintenance  
Policy B9: Prevention of Harm to Conservation Areas  
Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area  
Policy B13: Design and Development in Conservation Areas  
Policy B14: Development in or Adjoining the Boundary of Conservation Areas  
Policy B15: Trees and Landscape in Conservation Areas

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

#### National Planning Policy Framework (NPPF) (2012)

#### Planning Practice Guidance (PPG) (2014)

### **Relevant Planning History**

- 15/01004/FUL Demolition of some of the buildings at the Hawthorns, Keele and construction of student accommodation at Keele University Campus and residential development at The Hawthorns in the village of Keele – Approved
- 15/01009/FUL Demolition of Management Centre Buildings at The Hawthorns – Approved
- 17/00646/FUL Variation of conditions H4 (provision of site accesses), H20 (further site investigations) and H22 (remediation scheme) of the Hawthorns part of planning permission 15/01004/FUL for residential development of 83 dwellings – Resolution to approve subject to completion of a Section 106 agreement

### **Views of Consultees**

In relation to the amended plans submitted, the **Conservation Officer** appreciates the small change to vary the building line of properties towards the rear of the site and has no objections.

In relation to the amended plans submitted, the **Landscape Development Section** states that the revised plan addresses most of their concerns and they have no objections subject to submission of an updated Tree Protection Plan and Landscape Plan to reflect the amendments.

The **Conservation Advisory Working Party** considers that the amendments are not particularly an improvement on the scheme but has no objections.

The **Highway Authority** has no objections.

The **Environmental Health Division** has no objections.

**Staffordshire County Council Rural County (Environmental Advice)** raises no historic environment concerns.

**Historic England** makes no comment.

**Staffordshire Gardens and Parks Trust** makes no comment.

The **Highway Authority** has no objections.

The **Education Authority** states that as there is no change to the dwelling numbers, their comments remain the same as in relation to the original planning application.

The **Lead Local Flood Authority** makes no comment.

**Natural England** has no comment to make.

No comments have been received from the **Environment Agency**, the **Housing Strategy Section**, **Severn Trent Water** and **Staffordshire Wildlife Trust**. Given that the date for comments has passed, it must be assumed that they have no comments to make.

Comments on the amended plans are awaited from **Keele Parish Council**.

### **Representations**

None received

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

The application forms and plans have been submitted. These documents are available for inspection at the Guildhall and via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00953/FUL>

### **Background papers**

Planning files referred to  
Planning Documents referred to

### **Date report prepared**

17<sup>th</sup> January 2017



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**LAND BOUND BY RYECROFT, RYEBANK, MERRIAL STREET, CORPORATION STREET & LIVERPOOL ROAD**  
**HDD (NEWCASTLE-UNDER-LYME) LIMITED**

**17/00637/FUL**

On 7<sup>th</sup> November 2017 the Planning Committee resolved to grant planning permission for demolition of existing buildings and construction of a mixed use development comprising the following

- Student accommodation for 513 students within 164 units comprising 90 self-contained studios and 423 en-suite rooms (in 74 clusters of 4, 5, 6, 8 and 9) with shared lounge/kitchen areas.
- A block of four retail units (Use Class A1) providing a total of 3,839m<sup>2</sup> of gross external floor area and an additional 3,455m<sup>2</sup> mezzanine floor area distributed across the 4 units.
- Eight further units for food and drink, non-residential institutional, and leisure uses (Use Classes A3/A4/A5/D1/D2), and financial and professional services (Use Class A2). Five of these units are to be in the lower and upper ground floors of the student accommodation building and the remainder are in a separate block. These units provide a total of 2,604 m<sup>2</sup> of ground floor area and an additional 626 m<sup>2</sup> mezzanine floor area distributed across 2 units
- A car park providing 197 car parking spaces.

subject to the applicant entering into obligations under Section 106 of the Town and Country Planning Act 1990 by 8<sup>th</sup> January, or by such date as the Head of Planning may consider appropriate should that date be reached without such obligations being entered into, to secure the following:

1. A financial contribution of at least £542,797 to public realm improvements in Corporation Street with the remainder to be spent on the enhancement of public open space at Brampton Park or Queen Elizabeth Gardens, the public open space contribution being at least £250,000;
2. £2,245 towards travel plan monitoring;
3. A sum yet to be determined for the ongoing maintenance of the Real Time Passenger Information system for bus services;
4. A sum yet to be determined towards improvements to the cycle route from Newcastle town centre to Keele University;
5. A sum yet to be determined towards a Real Time Town Centre Car Parking Capacity Information System;
6. A financial contribution of £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; and
7. A financial contribution of £20,000 to be used to review and provide/amend traffic regulation orders on roads adjoining the site.

The Council as a joint owner of this site will have obligations associated with any legal agreement entered into to secure the matters above. As it is not legally possible for the Council to enter into an agreement with itself it is necessary for consideration to be given to an alternative approach to the completion of obligations under Section 106.

**RECOMMENDATION**

That the Committee agree that all parties should enter by 8<sup>th</sup> March 2018 into an Agreement under Section 111 of the Local Government Act 1972, which requires that a draft S106 Agreement (in the terms as per the resolution of Planning Committee on 7<sup>th</sup> November), annexed to the S111 Agreement, is entered into once the transfer of the site has taken place.

**Reason for Recommendation**

Taking into consideration that it is not legally possible for the Council, as one of the landowners to enter into an agreement with itself to secure the obligations, and that the County Council is also a

landowner here, it is necessary for all parties to enter into a Section 111 Agreement under the Local Government Act 1972.

### **KEY ISSUES**

On 7<sup>th</sup> November 2017 the Planning Committee resolved to planning permission for development as described above and subject to the applicant entering into a Section 106 obligation by agreement to secure the matters listed above.

It is known that it is not legally possible for the Council, who is a landowner as well as the Local Planning Authority, to enter into a legal agreement with itself. The advice received, in this case, is that the appropriate way forward would be for the parties to enter into a S111 (Local Government Act 1972) agreement. A Section 106 agreement would be agreed and annexed in draft form to the S111 with a condition that it be entered into once the transfer of the site has taken place.

The principle of the development has already been established by the previous resolution. Consequently, this report does not provide an opportunity to re-visit that issue. This item relates solely to the proposed amendment to the requirements of the legal agreement which should be via a Section 111 Agreement and not a Section 106 Agreement.

It has not been possible to complete the required Legal Agreements by the due date, which was 8<sup>th</sup> January, and as such it is necessary to set a new date. It is considered that a challenging yet reasonable date is 8<sup>th</sup> March 2018.

## **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 (adopted 2009)  
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011  
Policy IM1: Provision of Essential supporting Infrastructure

### **Other Material Considerations**

National Planning Policy

National Planning Policy Framework (2012)  
Planning Practice Guidance (March 2014)

Community Infrastructure Levy Regulations 2010, as amended

Supplementary Planning Guidance/Documents

Developer Contributions Supplementary Planning Document (SPD) (September 2007)

All of the application documents can be viewed at the Guildhall or using the following link.  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00637/FUL>

Background Papers

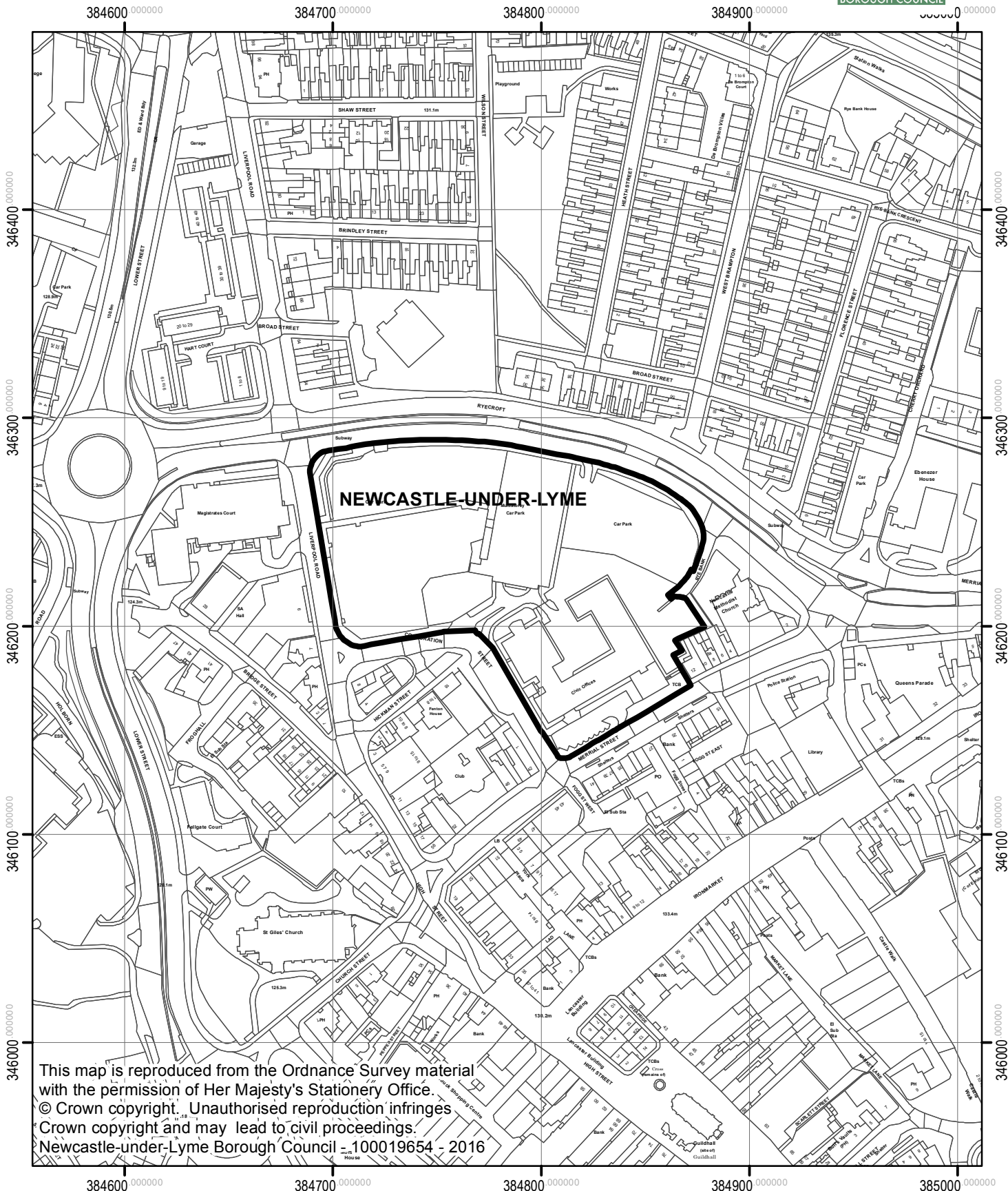
Planning files referred to  
Planning Documents referred to

Date report prepared

17<sup>th</sup> January 2017

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

**16/01101/FUL**

The above application was for full planning permission for the demolition of existing buildings on the site, and the erection of 99 dwellings, access, parking and amenity space. The application was refused by the Council on 21<sup>st</sup> August 2017, following its consideration by the Planning Committee at its meeting on the 15<sup>th</sup> August. An appeal against that decision has now been submitted to the Planning Inspectorate.

**RECOMMENDATIONS**

**That the Committee confirms:**

- 1) that it wishes officers to now write to the appellant to confirm that the obligations referred to in the recommendation that was provided to the Planning Committee on 15<sup>th</sup> August are required by the Local Planning Authority, with the exception of the financial contribution to the provision of off-site affordable housing which shall, whilst still representing 9% of the housing and required, be recalculated**
- 2) that in preparing the Council's Statement of Case, officers include reference to these above requirements;**
- 3) that in agreeing the required Statement of Common Ground officers take into account this resolution**
- 4) that should the appellant seek before the appeal is determined to enter into a Section 106 agreement with the Council containing such obligations, officers have the appropriate authority to enter into such an agreement.**

**Reason for report**

The application was refused planning permission on 21<sup>st</sup> August 2017. An appeal has been submitted to the Planning Inspectorate but it has not yet been accepted as a valid appeal. This report is solely concerned with the issue of planning obligations.

**Background**

The Planning Authority refused planning permission for this application on the 21<sup>st</sup> August for the following reasons:

- 1. The proposed development would have both direct and indirect impacts on the irreplaceable Chorlton Moss Local Wildlife Site. The location of the balancing pond in the Moss would result in the loss of part of the Local Wildlife Site and the development would have an adverse impact on the potential future restoration of the habitat to active bog. The development would thereby be contrary to saved Policy N3 of the Newcastle-under-Lyme Local Plan 2011, Policy CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and the aims and objectives of the National Planning Policy Framework (2012) (the NPPF).*
- 2. The adverse impact of the development upon the Chorlton Moss Local Wildlife Site significantly and demonstrably outweighs any benefits of the development when assessed against the policies of the National Planning Policy Framework (2012) taken as a whole and the proposal therefore represents an unsustainable development.*

Subsequent to the issuing of the decision notice the Local Planning Authority wrote to the applicant's agent drawing attention to the fact that the Planning Committee had resolved that explicit reference should be made in the decision notice to the development being contrary to paragraph 118 of the NPPF.

The recommendation before the Planning Committee (with respect to application 16/01101/FUL) was that planning permission be granted subject to the applicant entering into a Section 106 obligation to secure the following:

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

The report to the Committee on the application advised that obligations listed above were considered necessary because without such matters being secured the development would fail to secure appropriate provision for required education facilities, an appropriate level of affordable housing, the provision and management of public open space both on and off site, appropriate management of the Local Wildlife Site, and measures to ensure that the development achieves sustainable development outcomes.

The decision notice of the Local Planning Authority, drawn up on the basis of the resolution of the Planning Committee of the 15<sup>th</sup> August, makes no express reference to these obligations, which at the time of the decision of the Committee were not "on the table".

An appeal has now been lodged against the Council's decision and in the appeal documents submitted to the Planning Inspectorate, it is indicated that the appellant does intend to submit a planning obligation with respect to the appeal. Within their Statement of Case the appellant indicates that "a signed Unilateral Undertaking will be issued to the Inspector" and their Draft Statement of Common Ground (which has not yet been agreed to) states "The Appellant and Council are working jointly on a Section 106 agreement to address affordable housing, open space, education, travel plan monitoring, and the Chorlton Moss Management Plan".

The decision of the Planning Authority has been made with respect to 16/01101/FUL, the decision notice has been issued, and is now the subject of the appeal. There is no suggestion that the Council either can or should add to its grounds of refusal of the application. It is however appropriate and timely to make the Local Planning Authority's position in this appeal with respect to planning obligations absolutely clear. Whilst the Council cannot be made to enter into planning obligations, these can be put to the Inquiry by means of what is called a Unilateral Undertaking and it is expected of it as the LPA that it will respond to and comment upon any such Undertaking.

One of the examples given in national guidance of behaviour by Local Planning Authorities (which can be a basis for a 'substantive award of costs against that LPA) is requiring that an appellant enter into a planning obligation that does not accord with the law, or relevant national policy in the National Planning Policy Framework, on planning obligations.

Whilst confirmation has not yet been received of the appeal, copy of notice of the appeal was given to the Local Planning Authority on 18<sup>th</sup> December, and the Planning Inspectorate have since been in correspondence with your officers regarding the procedure by which the appeal is to be determined. The Planning Inspectorate have since confirmed that subject to satisfactory validation (of the appeal) they intend to handle it by way of an inquiry. The Council is accordingly already on notice that there is to be an appeal against its decision, and it needs to determine its position now.

A further planning application (17/01024/FUL) has now been submitted for 97 dwellings and will come before the Planning Committee for its consideration in due course.

It is appropriate to note that consultation responses (on that application) are still awaited in a number of cases but with respect to contribution (i) the Education Authority have advised your officer that they intend, as before, to seek a contribution towards primary school and secondary school provision (on the basis that the schools in question continue to be projected to be full for the foreseeable future) and at the same rate (per place) as they did previously. Similarly with respect to item (v) the Highway Authority are again seeking the same contribution of £6,430 towards travel plan monitoring costs.

The Landscape Development Section have however indicated they will be requesting a contribution by the developer for capital development/improvement of offsite open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years making a total contribution of £5,579 per dwelling. They say this would be used for improvements to the open space and play facilities at Whitmore Village Hall (as was the case when they commented upon the previous application).

The public open space contribution of £291,357 recommended by your Officer in August 2017 was for the sum of £2,943 per dwelling reflecting the amount sought in February 2017 by the Landscape Development Section (which was based upon the figures contained within the North Staffordshire Green Space Strategy). In March 2019 the Council adopted the Newcastle-under-Lyme Open Space Strategy, which contains inter alia higher per dwelling figures. As with any such change there is always a transition period particularly where applicants are relying upon advice given to them at pre-application stage or when consultees have already provided their views. It was considered in this case appropriate to seek the figure sought by the Landscape Development Section.

Whilst the Planning Committee in refusing the application came to no express decision in August (on what if any contributions would be appropriate), for the Council now to seek the higher public open space rate per dwelling, in the absence of any change in circumstances since August, does not to your Officer appear reasonable and is accordingly not being recommended. In the normal course of affairs, had the Committee in refusing an application resolved that without an obligation securing a specific contribution the development would have been unacceptable, then it is the case for that contribution which would advanced at any subsequent appeal.

Comments have yet to be received (on the new application) from the Housing Strategy section of the Council but there is no reason to consider that the Council should not continue to seek affordable housing from the development comprising 25% of the development. The split recommended (16% on site and 9% in the form of a financial contribution to enable offsite provision) follows that found acceptable by the Inspector in the Baldwin's Gate, Gateway Avenue appeal, and there has been no change since then that your Officer can identify.

As to the quantum of the off-site contribution, it is some time since the calculation (as to the amount) was undertaken (by the District Valuer in May 2017) and it is considered appropriate to revisit that amount. That will require the co-operation of the applicant and resources.

The obligation concerning the Management agreement for the long-term maintenance of the open space on the site remains appropriate and therefore should be sought.

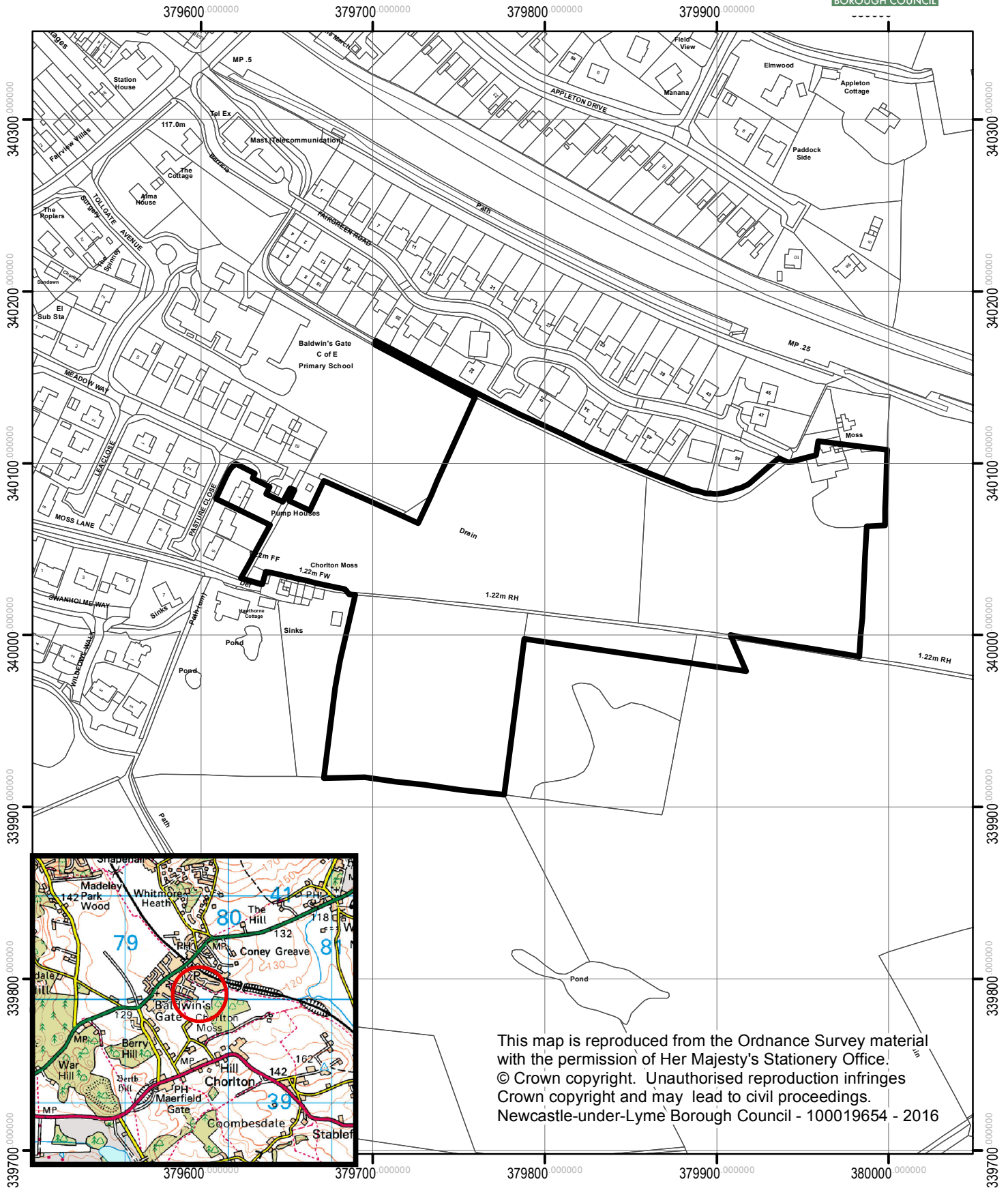
With respect to the obligation to secure the Management agreement for the restoration and long-term maintenance of part of the Chorlton Moss LWS., this could be advanced anyway by the appellant and no doubt will. No useful purpose would be served by the Council seeking to oppose such an obligation and indeed it is necessary to secure the offered Management agreement.

It is considered that all of the above obligations would meet the statutory and policy tests for obligations and would be lawful.

Date report prepared: 22<sup>nd</sup> January 2018

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**16/01101/FUL**  
**Land Off Meadow Way**  
**Baldwins Gate**



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**58, ABBOTS WAY, WESTLANDS**  
**MRS MARGARET COUPE**

**17/00906/FUL**

The Application is for full planning permission for a detached dwelling and double garage.

The application site, which comprises part of the garden of No. 58, Abbots Way, is located within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors due to residents' concerns, particularly about impact on visual amenity and the scale/positioning of the structures on the site.

**The 8 week determination period expired on the 4<sup>th</sup> January 2018 but the applicant has agreed to an extension of the statutory period to the 8<sup>th</sup> February 2018.**

**RECOMMENDATION**

**A) Subject to the applicant entering into a Section 106 obligation by 28<sup>th</sup> February 2017 to secure a public open space contribution of £5,579 towards improvements to Rydal Way or Lilleshall Road play areas,**

**PERMIT subject to conditions relating to:-**

- 1. Time limit**
- 2. Approved plans**
- 3. Landscaping conditions**
- 4. Provision of access and parking**
- 5. Construction method statement**
- 6. Construction hours**
- 7. Materials**
- 8. Boundary treatments**
- 9. Finished level of garage**

**B) Should the 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 a matter being secured the development would fail to secure the provision of improvements to a play area or, if he considers it appropriate, to extend the period of time within which such an obligation can be secured.**

**Reason for Recommendation**

This site is in a sustainable location within the urban area and therefore the principle of residential development is acceptable. The siting and design of both the proposed dwelling and garage are acceptable and would have no adverse impact on the character and appearance of the streetscene or on the residential amenity of the neighbouring dwellings. Subject to conditions, there would be no adverse impact on the trees.

A financial contribution towards public open space provision is required by current policy and is deemed appropriate.

**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 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 detached dwelling and double garage. The application site, which comprises part of the garden of No. 58, Abbots Way, is located within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

The main issues in the consideration of the application are:

- Is the principle of residential development on the site acceptable?
- Is the proposal acceptable in terms of its impact on the form and character of the area?
- Would there be any adverse impact on residential amenity?
- Would there be any adverse impact on trees?
- What financial contributions are required?
- an assessment overall of whether or not any adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

### Is the principle of residential development on the site acceptable?

Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land. The site is located within the Urban Area of Newcastle.

Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets 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 3,200 dwellings within Newcastle Urban Central (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.

This site is in a sustainable location within the urban area. The site is in easy walking distance of the shops and services of Newcastle town centre and there are regular bus services that run frequently and close by the site. It is considered that the site provides a sustainable location for additional residential development.

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

The Local Planning Authority is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a location which is close to services and facilities and promotes choice by reason of its proximity to modes of travel other than the private motor car.

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

Is the design of the proposal and the impact on the character and appearance of the area acceptable?

The NPPF places great importance on the requirement for good design, which is a key aspect of sustainable development. CSS Policy CSP1 broadly reflects the requirements for good design contained within the NPPF, and the Urban Design Supplementary Planning Document provides detailed policies on design and layout of new housing development.

Policy R3 of the Urban Design Supplementary Planning Document (SPD) states that new housing must relate well to its surroundings, it should not ignore the existing environment but should respond to and enhance it, exploiting site characteristics. Policy RE5 of the Urban Design SPD requires new development in the rural area to respond to the typical forms of buildings in the village or locality. In doing so, designers should take into account and respond to, amongst other things, height of buildings and the pattern of building forms that helps to create the character of a settlement, for instance whether there is a consistency or variety.

The proposed dwelling would be sited to the north-west of the existing house, No. 58, Abbots Way. An attached garage would be demolished and a new detached garage is proposed for the existing dwelling, to be sited between Nos. 58 and 60. The dwelling would be 2½ storeys with dormer windows in the roof. The design would be relatively simple and traditional and the materials would comprise facing bricks and tiles.

The existing property and the immediate neighbouring dwellings are large and set within spacious plots, however there are a mix of dwelling sizes and styles in the area with bungalows opposite, semi-detached and terraced properties to the south and some larger detached and semi-detached properties to the north and west. It is considered that the plots of both the existing and proposed dwellings would be sufficiently spacious and commensurate with those in the surrounding area and that the dwelling now proposed would be appropriate to this location and would have no adverse impact on the character or quality of the streetscene.

The proposed garage would measure 5.3m x 6.1m in plan with a height of 4.9m from the front and 5.4m from the side due to the varied ground levels. The scale of the double garage proposed is fairly typical of domestic garages and, set back behind the front elevation of the dwelling, it is considered that it would not be unduly prominent in the streetscene.

To conclude, it is considered that the siting and design of both the proposed dwelling and garage are acceptable and would have no adverse impact on the character and appearance of the streetscene.

Would there be any adverse impact on residential amenity?

The Council's Space Around Dwellings Supplementary Planning Guidance (SAD SPG) provides advice on environmental considerations such as light, privacy and outlook.

No principal windows are proposed in the side elevations of the dwelling and with respect to the interrelationship of the proposed dwellings with the neighbouring properties, sufficient distances are proposed between existing and proposed dwellings in compliance with the Council's SAD SPG.

The occupiers of No. 54 have expressed concern about overlooking from the landing window. A landing is not a habitable room and given that a landing window is not defined as a principal window in the SPG it is not considered that impact on privacy would be significant.

The owners of No. 60 have raised concerns particularly about the impact of the proposed garage. They are concerned that the garage will be overbearing and oppressive and that the rear window would cause overlooking of their garden. There are no principal windows in the side elevation of No. 60 and given that the garage is only single storey, albeit on a higher ground level than that of No. 60, it is not considered that it would be unduly overbearing on their outlook or experience of their private amenity space. The window in the rear elevation of the garage is not a principal window and it is not considered that there would be any material impact on the privacy of the occupiers of the dwelling.

With regard to both the proposed and existing dwellings, it is considered that sufficient private amenity space would be achieved.

Would there be any adverse impact on trees?

There are trees on and overhanging the site and therefore the Landscape Development Section (LDS) requested a Tree Survey and an Arboricultural Impact Assessment. The LDS has advised that the information provided does not assess all the affected trees and impact of the development and in particular, pollarded Beech trees (not owned by the applicant) positioned immediately adjacent to the proposed dwelling are not included. If those trees are to be retained, it will need to be demonstrated that special measures can be used to protect them however, importantly, no objection is raised if these damaged trees are to be removed. Subject to conditions therefore, it is not considered that any objection could be sustained to the proposal on the grounds of impact on trees.

What financial contributions are required?

The Open Space Strategy which was adopted by the Council on the 22nd March 2017 requires a financial contribution of £5,579 per dwelling towards public open space improvements and maintenance.

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.

A tariff style contribution is defined as one where the intention is to require a contribution to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The Landscape Development Section has indicated that the contribution in this case would be applied to either Rydal Way or Lilleshall Road play areas so 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.

Rydal Way is approximately 980m walking distance from the site and Lilleshall Road is 970m walking distance and both areas of open space are within a reasonable walking distance. The contribution 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. As such the contribution being sought is considered to meet the statutory tests.

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

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?

The NPPF advises that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

In decision taking this means that where the development plan is absent, silent or relevant policies are out-of-date then 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 taken as a whole; or specific policies in the Framework indicate development should be restricted.

As discussed the proposal would provide one dwelling which would contribute to the Councils housing supply, albeit the contribution will be small. In addition there will be the economic benefits arising from the construction and occupation of the development.

Whilst there may be some loss of trees arising from this development, such trees are of poor visual quality and do not make a positive contribution to the street scene and as such little weight can be attributed to this harm. In the absence of any other identified adverse impacts it is concluded that the limited harm that has been identified does not outweigh the benefits identified above and as such planning permission should be granted

## **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

#### [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 N12: Development and the Protection of Trees

### **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 \(2010\)](#)

#### [Relevant Planning History](#)

None

#### [Views of Consultees](#)

The **Environmental Health Division** has no objections subject to a condition regarding hours of construction.

The **Highway Authority** has no objections subject to conditions regarding provision of access and parking, retention of garage for parking of motor vehicles and cycles, and submission of a Construction Method Statement.

The **Landscape Development Section** states that the information provided does not include all the affected trees and impacts. Severely pollarded Beech trees (not owned by the applicant) positioned immediately adjacent to the proposed dwelling are not included. Whilst no objection is raised to the removal of these damaged trees, they need to be considered and specialist foundations would be required should these trees be retained. The Arboriculturalist needs to clarify that these affected trees will be removed and if this can't be achieved he must demonstrate that special measures can be used to protect them. The impact of widening the driveway upon T1 (category A large leaved Lime) has been missed. A full assessment is requested but should the application be approved then conditions are recommended requiring a tree survey, retained trees and RPAs shown on the proposed layout, arboricultural impact assessment and method statement, details of all special engineering within the RPA, dimensioned tree protection plan, details of alignment of utility apparatus and landscaping proposals. A S106 contribution is requested 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. The total contribution of £5,579 would be used for improvements to surfacing at Rydal Way which is 980m walking distance or Lilleshall Road which is 970m walking distance.

## Representations

Seven letters of representation have been received from the occupiers of two neighbouring properties. Objection is raised on the following grounds:

- The application is flawed with errors and inconsistencies.
- The garage is too large and will have a cramped appearance that will have an adverse visual impact on the adjacent houses and the neighbourhood.
- The garage will be overbearing and oppressive to No. 60 Abbots Way due to its location very close to the site boundary.
- The garage could affect safety with seepage of car fumes causing respiratory problems and the possibility of objects falling from a higher platform.
- Restriction should be put on preventing alternative uses for the garage.
- The rear window of the garage will overlook the rear garden of No. 60.
- Once the garage is established, a further application to incorporate it into the main dwelling would be easier to justify as would a second storey.
- The proposed level of the garage compared to the level of the parking area in front makes the gradient of the access difficult and dangerous. There is no room for 2 cars to access safely.
- Concerns regarding ground stability due to difference in levels.
- The house introduces potential privacy issues for neighbours.
- It is suggested that there may be a restrictive covenant preventing new dwellings.
- A precedent could be set allowing dwellings to be squeezed in throughout the Westlands which would ruin the character of the area.
- The proposal is at odds with the National Planning Policy Framework provisions.
- Impact on wildlife and trees.
- A bat survey should have been submitted.
- Parking appears insufficient.

## Applicant/agent's submission

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

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00906/FUL>

## Background Papers

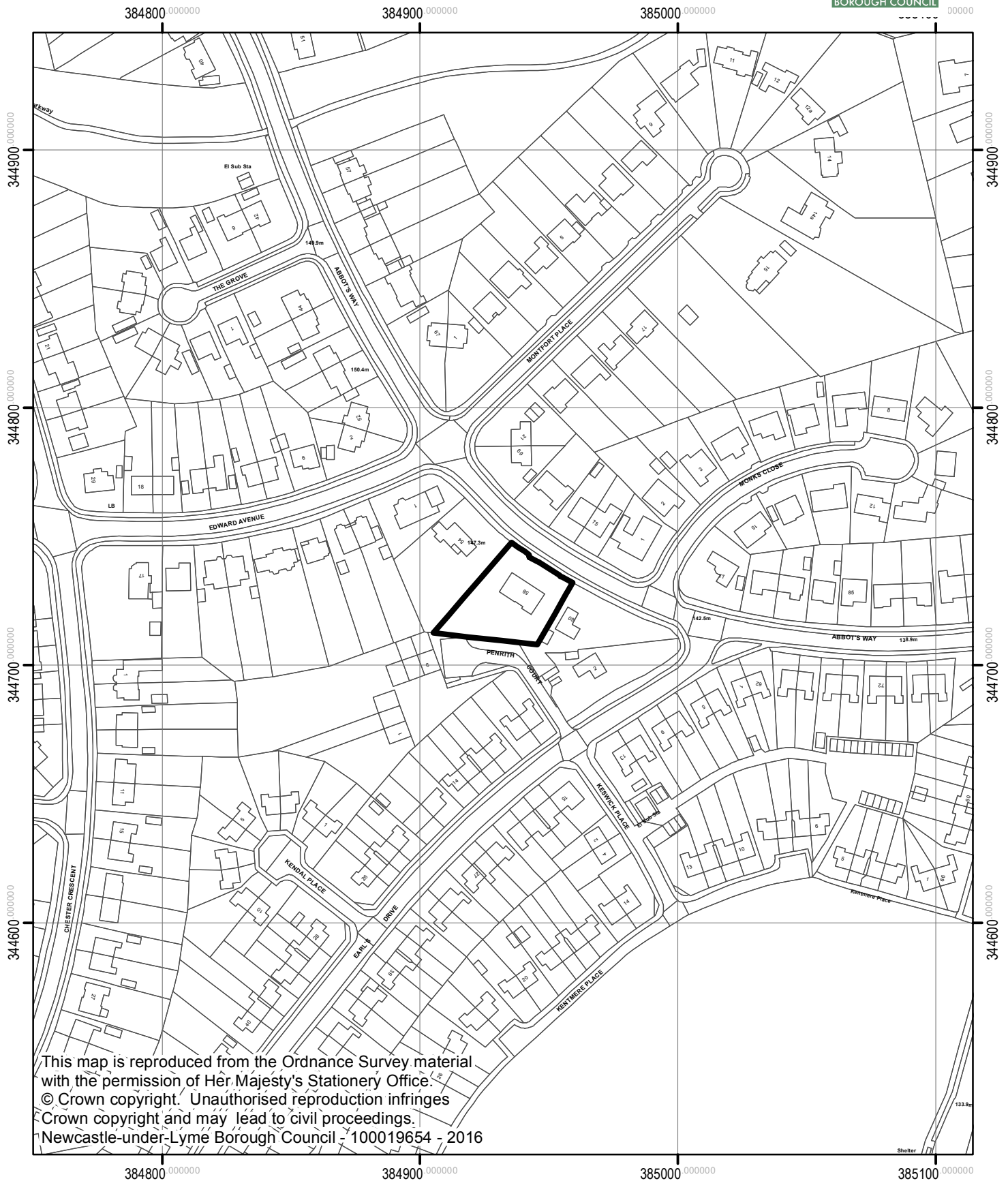
Planning files referred to  
Planning Documents referred to

## Date report prepared

12<sup>th</sup> January 2018

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**STONE QUARRY BARN, HIGH STREET, ALSAGERS BANK**  
**MR S EVANS**

**17/00750/FUL**

The application is for the construction of a 49.8m by 19.6m manege with associated stables for private use on land adjacent to Stone Quarry Barn, High Street, Alsagers Bank.

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

**The 8 week period for the determination of this application expired on 1<sup>st</sup> November 2017 but the applicant has agreed an extension of time to the statutory determination period to the 2<sup>nd</sup> February 2018.**

**RECOMMENDATION**

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

- 1. Time limit relating to the commencement of development**
- 2. Approved Plans**
- 3. Prior approval of any external lighting**
- 4. Prior approval of jumps or similar features**
- 5. Prior approval of details for the storage and disposal of waste**
- 6. Non-commercial use only**
- 7. Prior Approval of Tree Protection Plan**
- 8. Prior Approval of an Arboricultural Method Statement**
- 9. Prior Approval of Landscaping Scheme to include tree and hedgerow planting and replacement trees**

**Reason for Recommendation**

The proposed development, whilst involving an element of inappropriate development within the Green Belt – the change of use of land to the keeping of horses – is considered acceptable as it would not harm the openness of the Green Belt, or the purposes of including land within it. Very special circumstances are considered to exist, as the change of use is associated with the proposed ménage and stables which are appropriate development within the Green Belt. In addition, the development by virtue of its design, scale and materials, would not harm the character of the rural area or the Area of Landscape Restoration, and there would be no adverse impact to highway safety or trees. The development is considered to accord with Policies N12, N17, T16 and N21 of the Local Plan, Policy CSP1 of the Core Spatial Strategy and the aims and objections of the National Planning Policy Framework.

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

The proposal is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework. As such, no amendments were considered necessary to the application.

**KEY ISSUES**

Full planning permission is sought for the change of use from agricultural land to a use for the keeping and exercising of horses, including the erection of a manege and new stables at Stone Quarry Barn, High Street, Alsagers Bank. The application site is located within the Green Belt, and an area of Landscape Restoration within the rural area, as indicated by the Local Development Framework Proposals Map.

The proposed manege would measure 50 metres by 20 metres and would be situated in a field to the south east of Stone Quarry Barn. Immediately to the South of the manege there would be a new stable block constructed comprising four stables and a separate hay and tack store. The stables would have the maximum dimensions; 22.8 metres width by 6.3 meters depth by 3.6 metre height.

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

- Is the development considered appropriate development in the Green Belt?
- Is there any conflict with policies on development in the countryside?
- Is the design of the proposed development acceptable?
- Is the impact to trees and hedges acceptable?
- Are there any highway safety issues?
- Is the impact on residential amenity and the environment acceptable, and finally,
- If inappropriate development, are there any very special circumstances to justify approval?

#### 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 (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 states that the construction of new buildings is inappropriate development but advises that there are exceptions. Such exceptions include the provision of appropriate facilities for outdoor sport and outdoor recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

Paragraph 90 of the NPPF identifies other forms of development, not involving the construction of new buildings, which are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Engineering operations are identified as one such exception.

The provision of the stables for the keeping of horses as proposed in this application is considered appropriate development in the Green Belt, as it would fall within the scope of appropriate facilities for outdoor and sport recreation which is listed as one of the exceptions in paragraph 89 of the NPPF.

The creation of the manege is considered an engineering operation that preserves the openness of the Green Belt and does not conflict with the purposes of including land within it and as such is appropriate development.

Changes of use of land are not listed within the NPPF as appropriate development. Therefore the starting point for the consideration of the change of use of the land must be that it would be inappropriate development in this Green Belt location.

#### Is there any conflict with policies on development in the countryside?

Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

The site lies within an Area of Landscape Restoration. Policy N21 of the Local Plan states that in these areas development that would help to restore the character and improve the quality of the landscape will be supported. Thing these areas it is necessary to demonstrate that development will not further erode the character or quality of the landscape.

The appearance of the development will be largely open in nature and would not intrude visually into the wider landscape. The use of the land for the exercising and keeping of horses is considered appropriate in this rural location and the materials and scale of the development would not further erode the character of the landscape and so would accord with Policy N21.

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

The NPPF states that the government attaches great importance to the design of the built environment, and 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 application site comprises an area of land approximately 35 metres South East of the dwelling of Stone Quarry Barn. The proposed stables would be sited in the far southern corner of the site, with the manege extending north east from the southern boundary. The manege would measure 49.8 metres by 19.6 metres and would be surfaced in a stable track and rubber fibre pre mix with the area enclosed by 1.2m high post and rail fencing. The design and surfacing treatments for the proposed manege are standard for this type of development, and there are no concerns identified with regards to any potential harm to the visual amenity of the wider landscape. Also given the existing dense screening to the East of the site and the topography of the land the proposal would not be readily visible from within the High Street street scene.

The land level gradually increases from the west of the proposed manege at 185.52 to 187.53 to the East. The land then increases in height more sharply towards the boundary with High Street. Given the topography of the land some excavation will be required to provide an even land level for the proposed manege which would see this area sit at 185.48 for the entirety of the manege area as well as the land on which the proposed stables would be sited. Whilst this would be a rather significant alteration to the appearance of this part of the site, it is not considered that this would be to the detriment of the area. The increase in land level to the east and existing dense tree/hedgerow coverage would mean that the alterations would not be readily visible from the High Street. The alterations would be visible from the Audley no. 64 public footpath to the west of the site, however the use of the land as a manege would not been seen as out of context in this rural setting and the manege has been designed to have minimal visual impact on the wider landscape.

With regards to the stables, these would be sited to the south of the manege and would be constructed using a brickwork plinth and timber cladding on the external elevations with profile roof sheeting; each stable would also have a timber door and glazed panel. The scale and design of the stables is considered commensurate with the size of the plot and the open rural character of the locality and so would not harm the visual amenities of the area.

Gabion baskets would be constructed around the proposed stable building and also to the south west of T6 (Sycamore) to assist with the change of levels in these areas of the site. Whilst the baskets would appear a stark addition to the site initially, over time these structures will weather and begin to host varying types of vegetation, softening their visual appearance in the landscape. A traditional brickwork retaining wall could be considered too domestic in its appearance given the open rural setting and so the gabion baskets offer a suitable alternative in assisting with the changes in land levels required and the impact of this on the visual amenity of the surrounding area.

The design of the manege is therefore considered to comply with Policy N21 of the Local Plan, Policy CSP1 of the Core Strategy and the aims and objectives of the NPPF.

### Is the impact to trees and hedges acceptable?

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

An existing group of trees have been removed during the consideration of this application. Whilst this is disappointing given the visual screening that these trees would have afforded the development, they did not benefit from a Tree Preservation Order and so permission to remove was not required. In light of this, the Landscape Development Section now have no objections to the application. They do, however, recommend a number of conditions including the requirement for tree protection plans to address the remaining trees on the site and an Arboricultural Method Statement, with particular reference to T6. It had been requested to condition the re-planting of trees to the South of the site on

the bankside where G7 has been removed. To secure this a standard landscaping condition requesting tree and/or hedgerow planting to soften the visual appearance of the development and to replace trees that were removed is considered sufficient and will be attached to any permission granted.

Therefore on balance, and subject to appropriately worded conditions, it is not considered that the proposed development would have a significantly detrimental impact on the surrounding natural landscape to such an extent that would warrant the refusal of the application.

Is the impact on residential amenity and the environment acceptable?

Paragraph 17 of the NPPF states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Stone Quarry Barn shares residential amenity space with Stone Quarry Farm, however the siting of the manege falls outside of the designated curtilage for these properties. Neighbouring residential dwellings are located to the East of the proposed manege, therefore it is important to ensure that the development would not detract from the residential amenity enjoyed by these properties.

These neighbouring properties are sited at a much higher level than that of the proposed manege and together with existing screening, it is not considered that the development would have significant adverse impacts on the residential amenity afforded to these dwellings. Furthermore the Environmental Health Division raises no objections to the development subject to conditions relating to approval of any external lighting and that details of the storage and disposal of the stables waste are submitted to the Local Planning Authority before the proposed development is first brought into use.

Therefore subject to appropriate conditions the development is considered acceptable with regards to residential amenity.

If inappropriate development, are there any very special circumstances to justify approval?

The NPPF states in paragraph 88 that when considering planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other circumstances. Inappropriate development by definition is harmful to the interests of the Green Belt. However, beyond that no element of 'other harm' has been identified associated with the change of use of land.

There is no suggestion that the use of the land as a manege involves the provision of other permanent equestrian paraphernalia (jumps etc) and so no harm to the Green Belt's openness or to any of the purposes of including land within the Green Belt arises from the use in question, and the use is one that is directly connected with the provision of appropriate facilities for outdoor sport and recreation which are activities that are appropriate and acceptable in the Green Belt. The land would remain open with the only alterations being to the surfacing of the land and new means of enclosure/retaining walls.

Given the lack of substantial harm to the openness of the Green Belt the change of use of the land it is considered that the required very special circumstances can be considered to exist in this case.

## **APPENDIX**

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

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

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

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

Policy S3 Development in the Green Belt  
Policy N12 Development and the protection of trees  
Policy N17 Landscape Character – General Considerations  
Policy N21 Area of Landscape Restoration

### **Other Material Considerations**

#### National Planning Policy

[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 \(2010\)](#)

#### Relevant Planning History

98/00879/COU	Conversion of redundant farm building to form two holiday accommodation units	Permitted 1999
15/00880/COU	Change of use of existing 2 holiday lets (C1) to 1 dwelling (C3)	Permitted 2015

#### Views of Consultees

**Audley Parish Council** resolved to support the application on the basis that this is for personal use only.

Having requested the submission of a Tree survey and Arboricultural impact assessment the comments from the **Landscape Development Section (LDS)** were initially received requesting that the applicant consider retaining group G7 as these could provide a visually useful backdrop to this development and that further detail should be provided in relation to the proposed retaining structure.

Having received additional plans and information that confirmed group G7 had been removed further comments were provided from the LDS which expressed disappointment in the removal of G7 prior to the application being determined, but raised no objections to the proposal subject to a number of conditions including the submission of an appropriate landscaping scheme to include replacement trees as well as the provision of the Tree Protection Plan and Arboricultural Method Statement prior to the commencement of development.

The **Environmental Health** raises no objections subject to condition to a secure external lighting details and information for the storage and disposal of stable waste.

The **Highway Authority** raises no objections to the development subject to a condition limiting the use of the manege for private use only.

#### Representations

None received

Applicant/agent's submission

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

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00750/FUL>

Background Papers

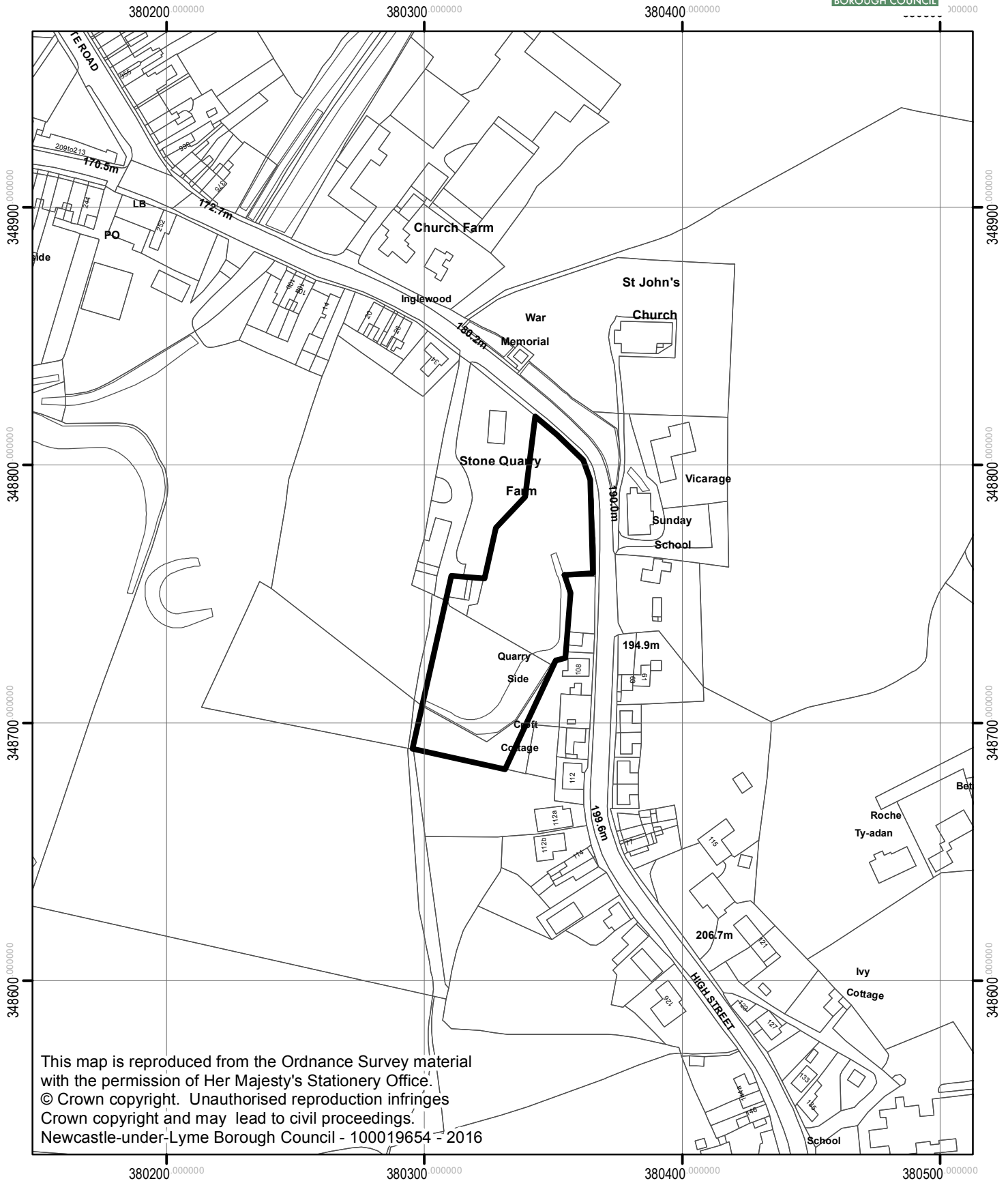
Planning File  
Development Plan

Date report prepared

10<sup>th</sup> January 2017



**17/00750/FUL**  
**Stone Quarry Barn**  
**High Street**  
**Alsagers Bank**



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**FIELD RISE, ACTON LANE, ACTON**  
**MR CRAIG JONES**

**17/00790/FUL**

The application seeks planning permission for the demolition of the existing detached house and double garage and erection of a new detached house and garage

The application site is located within the open countryside on land designated as being within the North Staffordshire Green Belt and Landscape Maintenance Area (policy N19), as indicated on the Local Development Framework Proposals Map.

**The statutory 8 week determination period for the application expired on 23<sup>rd</sup> November 2017 however the applicant has agreed to extend the determination period until 2<sup>nd</sup> February 2018**

## **RECOMMENDATION**

**PERMIT subject to the following conditions;**

- 1. Time limit**
- 2. Approved plans**
- 3. Materials to be submitted**
- 4. Removal of Permitted Development Rights – Class A, B, C & E**
- 5. Submission of a construction method statement**
- 6. Occupation after access, parking and turning areas are constructed**
- 7. Trees shown as retained to be retained and protected during construction**
- 8. Dimensioned Tree Protection Plan**
- 9. Arboricultural Method Statement**
- 10. Schedule of works to retained trees**
- 11. Hours of construction limited to 8am to 6pm Monday to Friday and 8am to 1pm on Saturdays**
- 12. Prior approval and implementation of mitigation measures to address the loss of bat roosts within the existing building**

## **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 have a similar volume. This is a fall-back position. The proposed replacement dwelling also represents a high standard of design. These factors amount to the very special circumstances required to justify the development in this instance.

The impact on visual amenity, character and quality of the landscape, protected species and highways safety would also be limited and not adverse. Subject to the removal of permitted development rights and a number of other conditions the proposed development accords with policies N12, N17, N19 of the Local Plan and policy CSP1 of the Core Spatial Strategy and the requirements of the NPPF.

## **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 is for full planning permission for the demolition of the existing dwelling and garage and their replacement.

The application site is located within the village of Acton which has no defined development boundary and so is classed as open countryside, located within the North Staffordshire Green Belt and on land designated as an Area of Landscape Maintenance, as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of this application are therefore:

- Whether the proposal constitutes appropriate or inappropriate development in the Green Belt
- The impact of the proposal upon the character of the area and on the Area of Landscape Maintenance
- Highway Safety and car parking
- Impact on amenity
- Will the development have an unacceptable impact on protected species?
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

#### Is the development appropriate or inappropriate development within the Green Belt?

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

The NPPF further 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.

The applicant has calculated that the original dwelling (excluding any extensions post 1948) has a volume of 615 cubic metres. The proposed dwelling would measure 1650 cubic metres. As such the proposed dwelling would be materially larger than the dwelling it is to replace and it is therefore inappropriate development within the Green Belt and should not be approved except in very special circumstances. Whether there are very special circumstances to justify the granting of planning permission in this case will be addressed below.

#### Impact on the character of the area

The NPPF details 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 details that great weight should be given to outstanding or innovative designs.

Saved Local Plan Policy N19 seeks to maintain the high quality and characteristic landscapes in such areas. Where development can be permitted it will be expected to contribute to this aim. Within such an area it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The village of Acton is made up of properties of different ages and styles. The existing property is traditional in design built in brick at ground floor and hanging tile cladding at first floor, with a pitched roof on the original dwelling and a flat roofed double garage at the side. The existing property has limited design merit with no notable design features worthy of retention. It does, however, occupy a spacious plot that is elevated above Acton Lane and many of the neighbouring buildings within the village. It therefore occupies a prominent position within the village.

The proposed replacement dwelling is of a contemporary/modernist design with a flat roof, constructed in treated timber cladding at ground floor and smooth white render at first, and incorporating a significant amount of glazing. The property has been designed to be in contrast to other properties in the locality.

Whilst it is acknowledged that the development does not reflect the traditional design of the existing property and others within the locality it is considered that it achieves a high quality design that would meet the requirements and guidance of the Framework.

#### Highway Safety and car parking

The Highway Authority has raised no objections subject to a condition preventing the conversion of the garage without the benefit of planning permission and the access and turning areas on site. A Constriction Management Plan has also been requested, which given the nature of Acton Lane is considered to be necessary.

Sufficient parking would be provided on site for a dwelling of this size within the driveway, and as such the proposal would comply with policy T16 of the Newcastle-under-Lyme Local Plan. A condition preventing the conversion of the garage and the loss of parking within it is not justified therefore.

#### Impact on amenity

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

Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on development including the need for privacy, daylight standards, and environmental considerations.

As discussed the property occupies a spacious plot with the nearest property being Hunters Lodge, approximately 20m to the east of the site. Due to the spacing distances, and mature tree coverage between the dwellings it is not considered that the proposal would adversely affect the amenities of any neighbouring dwellings.

#### Will the development have an unacceptable impact on protected species?

A Phase 1 Habitat Survey has been submitted with the application that identifies that two bat species are roosting within the existing building. Mitigation measures are therefore required and it will be necessary for a condition to be imposed to secure such measures and subject to this it is considered that the proposal will have an acceptable impact upon protected species, ensuring that they are rehoused within the site.

#### 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 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 rear extension of up to 8 metres from the original rear elevation or a smaller two storey rear extension. A large single storey side extension and a large outbuilding could also be constructed (depending on its size and location) without planning permission.

In this instance the applicant has calculated that the original dwelling (excluding any extensions post 1948) has a volume of 615 cubic metres (floor area of 198 square metres). They have also detailed that the original dwelling, plus permitted development on site, i.e. rear, side extensions and an outbuilding on site would measure approximately 2123.5 cubic metres. The submission further indicates that the proposed dwelling would measure 1650 cubic metres (522 square metres).

Whilst it is unlikely that the full extent of the permitted development rights would be exercised it is accepted that to achieve a similar level accommodation as the proposal, alterations and extensions are likely to be undertaken. It is therefore considered that there is a fall-back position that could be exercised by the applicant and this needs to be considered in the determination of this application.

It is accepted that the replacement dwelling is of a similar scale to the original dwelling plus additional extensions that can be constructed without planning permission. In addition it is considered that the proposed replacement dwelling is of a better standard of design than the existing with regard to its form, appearance and use of materials within the site when compared to the original dwelling as extended.

Overall it is considered that the development as proposed would have a similar impact on the openness of the Green Belt but would be visually better when compared to the fall-back position and these factors amount to the very special circumstances required to justify the proposed development in this instance, this being in accordance with the requirements of the NPPF.

Given the nature of the very special circumstances demonstrated it is necessary and appropriate to remove permitted development rights for further extensions and outbuildings.

## **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 N12: Development and the Protection of Trees  
Policy N13: Felling and Pruning of Trees  
Policy N17: Landscape Character – General Consideration  
Policy N19: Landscape Maintenance Areas

### **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

NNR3570	Erection of dwellinghouse	Permitted 1965
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### Views of Consultees

**Whitmore Parish Council:** has no objections but urges that should permission be granted they suggest that permitted development rights be removed from the dwelling, and that the screening of the site provided by the trees/shrubs/hedges are protected by condition.

**Highway Authority:** No objections to the development subject to a conditions being attached to the decision notice preventing the conversion of the garage, construction of the access, parking and turning areas prior to occupation and the submission and approval of a Construction Management Plan.

**Landscape Development Section:** No objections subject to the trees indicated on plan being retained and the submission and prior approval of a dimensioned tree protection plan, arboricultural method statement and schedule of works to protected trees.

**Environmental Health:** Raise no objections however request that a condition restricting the hours of construction is attached to the decision notice.

Representations

None

Applicant/agent's submission

The application is supported by a Planning Application, Plans and Protected Species Survey.

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00790/FUL>

Background Papers

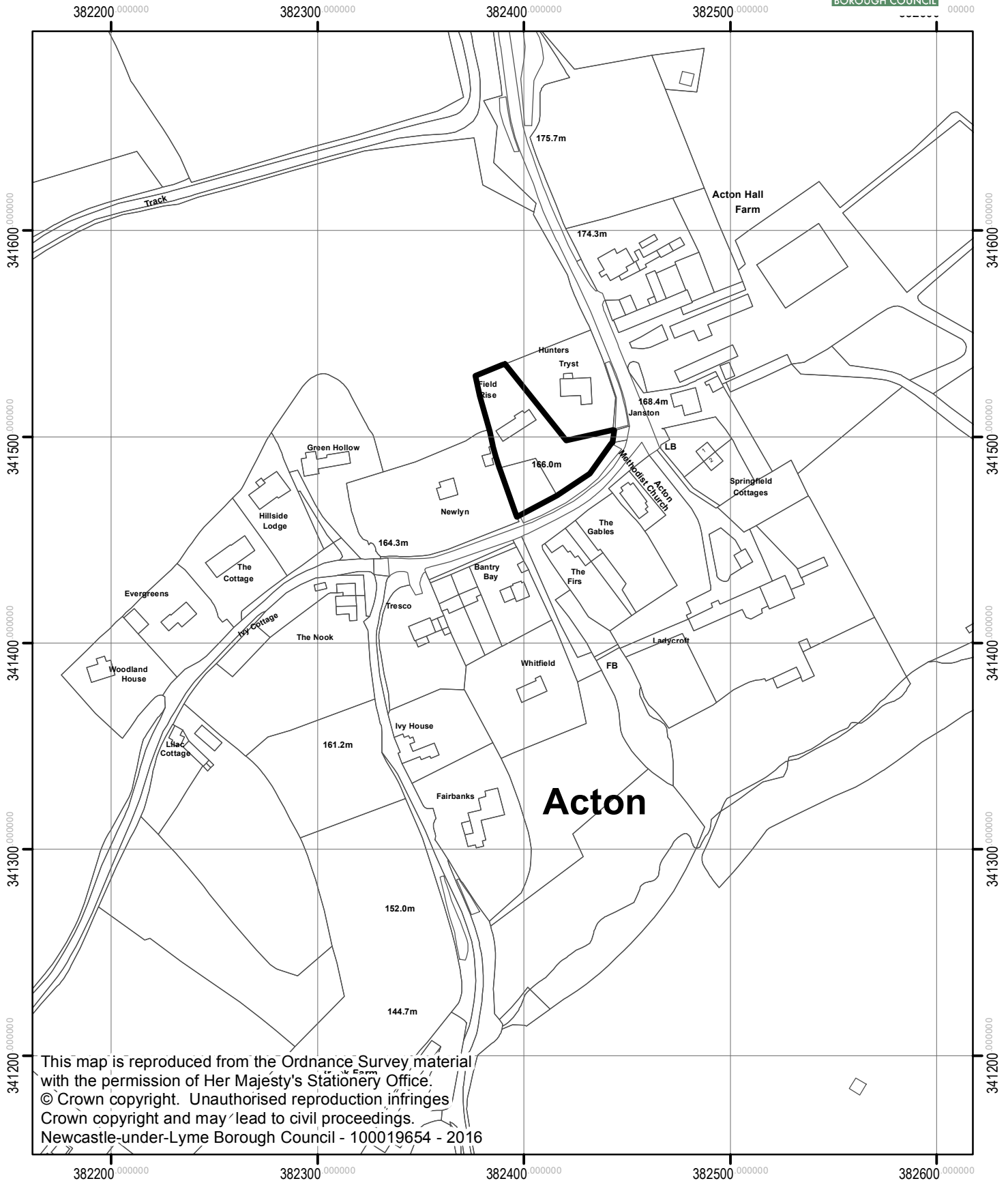
Planning File  
Development Plan

Date report prepared

16<sup>th</sup> January 2018



**17/00790/FUL**  
**Field Rise**  
**Acton Lane**  
**Acton**



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**11 GALLOWS TREE LANE, NEWCASTLE**  
**MR W ALMASHTA**

**17/00886/FUL**

The application seeks planning permission for the construction of a single storey outbuilding to replace an existing garage and to be used as a gym, study room and bathroom.

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

The application has been called in to Committee by two Councillors due to residents' concerns about the following;

- Effect on the street scene in Monaco Place and Gallows Tree Lane
- Overbearing impact on the neighbouring property
- Use of building.

**The statutory 8 week determination period for the application expired on the 2<sup>nd</sup> January 2018.**

**RECOMMENDATION**

**PERMIT subject to the following conditions;**

- 1. Time limit**
- 2. Approved plans**
- 3. Prior approval of materials**
- 4. The building shall be used for purposes incidental to the enjoyment of the main dwelling house and shall at no time be converted to additional bedroom accommodation without the prior approval of the Local Planning Authority.**

**Reason for recommendation**

The proposed building is considered to be appropriate in size and appearance and would not have a harmful impact to the character and appearance of the area. As such the reason for refusal of planning permission 16/00979/FUL has been addressed. In addition, subject to conditions ensuring that it remains in use for purposes incidental to the enjoyment of the main house and is not converted to additional bedrooms the proposed building will not result in concerns regarding residential amenity and highway safety due to inadequate parking.

**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 is for planning permission for the erection of single storey brick outbuilding to replace an existing garage. It follows an application for an outbuilding which was refused in early 2017 (reference 16/00979/FUL) for the following reason:

*The proposed outbuilding by virtue of its inappropriate size and appearance would result in a harmful impact to the character and appearance of the area including public views from Monaco Place. The proposal would therefore be contrary to the requirements and guidance of the National Planning Policy Framework (2012), Policy CSP1 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (2006-2026) and the advice found in the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010).*

The current proposal, as was previously the case, involves the removal of a garage which is accessed from the rear off Monaco Place. In refusing the previous application it was not concluded that highway safety issues would arise so as to justify refusal on that ground. As with the previous application it remains that no additional bedrooms are proposed, therefore there is no change in parking requirements at the premises, and adequate on-site parking remains for the occupiers of the dwelling. As such highway safety is not an issue that requires any further consideration.

The key issues to address are therefore as follows;

- Design of the proposal and impact upon the streetscene and wider character of the area
- Whether the proposed development would adversely affect the residential amenity of neighbouring dwellings

#### Design and Impact upon 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 National Planning Policy Framework (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.

As indicated above the existing garage is located to the rear of the existing dwelling and given that it has a flat roof its design does not reflect the design of the pitched roof bungalows on Monaco Place, which form the context of application site. In addition its design does not reflect that of the dwelling it is associated with or the others within Gallows Tree Lane, which are two semi-detached properties.

The previously refused building was 'L' shaped in form measuring a total of 11.4m in length and 7.6m in width. As proposed it spanned almost the total width of the garden and was of a scale that was considered to be inappropriate compared to the main dwelling house given that its footprint was larger than the dwelling. As that building would be viewable from Monaco Place it was considered that it would be harmful to the character of the area due to its size and massing in relation to other properties. The conclusion reached was that the proposal would appear strident and as such failed to comply with relevant design policies in the Local Plan and the Framework.

The proposed building is to be constructed in brick with a pitched, tiled roof to match the existing dwelling and as such it is of a design which is more in keeping with that of the existing house. It is considerably smaller than the building that was refused in the previous application measuring 8.6m by 5m in length and width, 2.6m to the eaves and 3.8m to ridge. Its scale and massing is therefore comparable to a large single garage although still larger than the existing building (which measures 7.2m by 3.15m, and a maximum height of 2.6m).

Whilst the building will still be visible from Monaco Place its design, scale and massing is considered to be appropriate in this context, in keeping with the scale of other garage buildings at the rear of Gallows Tree Lane properties accessed from Monaco Place and acceptable in its appearance. The reason for refusal of the previous application has therefore, it is considered, been addressed.

#### Impact upon Residential Amenity

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

Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on development including the need for privacy, daylight standards, and environmental considerations.

In consideration of this issue it should be noted that the previous building, which was larger and was to be used as a games room, was not refused on grounds that it would adversely affect residential amenity by virtue of loss of light, loss of privacy, overbearing impact or noise.

The current building is considerably smaller than the building previously refused and as it is to be used for similar purposes it could not be argued that this building would give rise to an unacceptable impact on residential amenity when the previous building was considered to be acceptable in this regard. Notwithstanding this, the issue will be addressed in more detail below.

The SPG indicates that where new buildings are to be sited close to the principal windows of existing properties they should be designed so that there is no obstruction to daylight beyond a 45° angle measured horizontally and vertically from the mid point of the nearest principal window. The proposed would intercept the 45° line when measured horizontally from nearest principal window of the adjoining property but not when measured vertically. As such the proposal is not in conflict with this guidance and would not unacceptably affect the level of light or have an overbearing impact on the occupiers of the adjoining dwelling. Whilst there are side facing windows within the proposed building they are not principal windows and any overlooking of adjoining properties would be prevented by boundary treatments.

Concern has been expressed that the gym room will attract additional students to the property over and above those that currently occupy the existing house resulting in additional noise. The building has a limited floorspace, however, and in light of that it could not be demonstrated that it would generate activity beyond that of a normal student house of this size or that the level of noise would be unacceptable. A condition can be imposed, for the avoidance of doubt, to clarify that the building is to be used for purposes incidental to the main house only.

In addition it has been suggested that the building could be converted to additional bedrooms or, possibly, an independent dwelling. Planning permission would be required if the building was to be converted to a separate dwelling, however no permission is required if, in future, it was used as additional bedrooms in association with the occupation of the main house. A condition can be imposed, however, to prevent this happening without planning permission and such a condition is considered to be reasonable and appropriate to ensure that proper consideration can be given to the issues arising from additional bedrooms which would include amenity and parking.

Overall the development is considered to be acceptable in respect of residential amenity.

## **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](#)

ASP5: Newcastle and Kidsgrove Urban Areas  
CSP1: Design Quality

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

T16: Development – General parking requirements  
N12: Development and the Protection of Trees

### **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 \(2010\)](#)

### Relevant Planning History

16/00979/FUL Demolish existing garage and construct a games room Refused 2017

### Views of Consultees

None consultations undertaken

### Representations

11 letters of objection have been received including a letter from a Ward Councillor (Cllr Wing) raising the following concerns:-

- Overdevelopment of this site
- Harmful to the street scene
- Traffic in the area could increase as a result of the development particularly if the building is used to provide more student accommodation.
- The structure could be used as a dwelling in the future if it were to be built.
- Noise and disruption from the development.
- The proposal if permitted could set precedent for further harmful development.
- There are existing problems at the premise due to the burning of rubbish.
- The proposed building will obstruct light and result in the loss of privacy.

### Applicant/agent's submission

The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00886/FUL>

### Background Papers

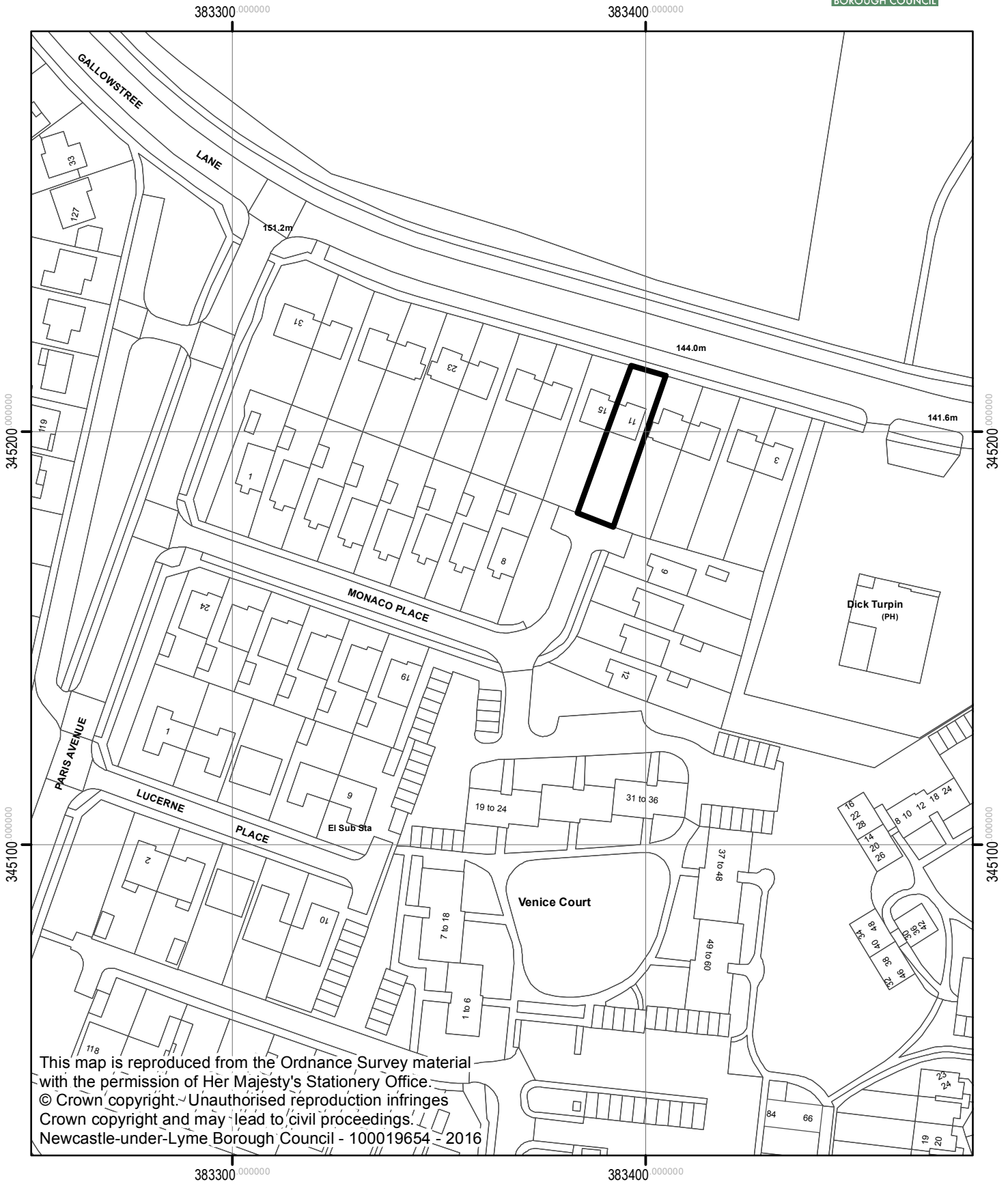
Planning File  
Development Plan

Date report prepared

23<sup>rd</sup> January 2018

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**34 BRAMPTON ROAD, MAY BANK**  
**MR BARROW**

**17/00976/FUL**

The application seeks planning permission for a two storey side extension to the dwelling.

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

The application site also contains a number of mature trees covered Tree Protection Order No.8.

The application has been called in to Committee by two Councillors due to residents' concerns, particularly about the oppressive nature of the proposals and loss of amenity of a neighbouring property.

**The statutory 8 week determination period for the application expired on the 30<sup>th</sup> January 2018**

## **RECOMMENDATION**

**REFUSE for the following reasons:**

1. The proposed development, by virtue of its size, design and location would be unduly dominant when viewed from the first floor bedroom window and rear amenity space of the adjoining dwelling thereby causing an unacceptable loss of light, outlook and privacy, and would have overbearing impact, to the detriment of the living conditions of the occupiers of that property. The development would therefore be contrary to the Council's adopted Space Around Dwellings Supplementary Planning Guidance, Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document, and guidance regarding amenity within the National Planning Policy Framework.

2. The proposed extension by virtue of its size, appearance and location would not be subordinate to the design of, and would result in a harmful impact to the character and appearance of, the original dwelling and the wider street scene. The proposal would therefore be contrary to the requirements and guidance of the National Planning Policy Framework (2012), saved Policy H18 of the Newcastle-under-Lyme Local Plan 2011, Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and the advice found in the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010).

## **Reason for recommendation**

The proposed two storey side extension by virtue of its size, design and location would have an unacceptable impact on the character and appearance of the existing dwelling and the street scene. In addition it would result in an unacceptable loss of amenity to the occupiers of the adjoining property. As such, the proposal would not comply with the relevant policy and guidance.

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

This is not considered to be a sustainable form of development and so does not comply with the provisions of the National Planning Policy Framework.

## **KEY ISSUES**

The application is for planning permission for the erection of a two storey side extension to the dwelling. The proposed extension would be constructed in facing brick and roof tiles to match the main dwelling.

Sufficient parking space would remain available within the site and as such the proposal does not raise any highway safety concerns. The application site is located within the Newcastle Urban Area where the principle of extending a dwelling is accepted, subject to detailed consideration of the following matters;

1. Design of the proposal and impact upon the streetscene and wider character of the area
2. Whether the proposed development would adversely affect the residential amenity of neighbouring dwellings
3. Any adverse impact upon protected trees.

#### Design and Impact upon 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 National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Saved policy H18 of the Local Plan relates specifically to residential extensions and indicates that the form, size and location of an extension should be subordinate in design to the original dwelling to be extended and the extension should not detract materially from the character of the original dwelling or from the integrity of the original design of the group of dwellings that form the street scene or setting.

R23 of the Urban Design Supplementary Planning Document (SPD) states that extensions to dwellings should be well designed and contribute positively to the townscape character.

The proposed two storey extension would be sited on the footprint of the existing single storey garage. The roof of the proposed extension would tie into the existing roof line and would have the same ridgeline as the existing roof. In addition the proposed extension is not set back from the existing front elevation at the point where it is attached to existing dwelling. The span of the already large dwelling would increase significantly and would be prominent in views from the street scene on Brampton Road. As such the proposed extension does not include any of the design features that contribute to an extension having a subordinate appearance, and it is considered would detract from the character of the original dwelling and from the street scene.

In summary, the proposal is not considered to comply with saved policy H18 of the Local Plan, or design guidance within the adopted SPD and the NPPF, and would have an unacceptable impact upon the street scene of Brampton Road.

#### Impact upon Residential Amenity

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

Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on development including the need for privacy, daylight standards, and environmental considerations.

The SPG indicates that where new buildings are to be sited close to the principal windows of existing properties they should be designed so that there is no obstruction to daylight beyond a 45° angle measured horizontally and vertically from the mid pint of the nearest principal window. The proposed extension would be sited adjacent to the boundary shared with No.32 Brampton Road and would intercept the 45° line when measured horizontally from the first floor bedroom window of the adjoining property. Whilst the 45° line is not be intercepted when measured vertically given the orientation of the extension and its proximity to the adjoining wind it is considered that it would unacceptably affect the level of light and outlook afforded to the dwelling and is therefore unacceptable.

The proposed extension would be sited close to the side boundary of the adjoining property at a distance of approximately 15m from the rear elevation of that property, sited at an offset angle. The proposed extension would be viewed from the rear amenity space of next door and as the two storey gable of the extension would run almost the entire length the neighbours rear garden it is considered that this would be overbearing and result in an unacceptable overshadowing of that rear garden space. In terms of privacy, the proposed extension would have bedroom windows to the front and rear at first floor level that would result in some overlooking to the neighbouring dwelling, reducing privacy to their amenity space.

No other neighbouring dwellings would be adversely affected by the proposal.

The development is considered to fall contrary to advice on residential amenity within the NPPF and the SPD.

#### Impact on protected trees

Policy N12 within the Local Plan states that development should not result in the harm or loss of significant trees, and that their protection will need to be identified prior to development taking place on site.

The application site a tree protected by TPO 8 to the front of the application site, and also a number of matures trees within and beyond the application site itself. It would appear that the siting of the proposed two storey extension is such that it will not adversely affect the trees. The views of the Landscape Development Section have been sought to confirm whether that is the case and any comments received will be reported.

## **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](#)

ASP5: Newcastle and Kidsgrove Urban Areas

CSP1: Design Quality

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

H18: Design of Residential Extensions, where subject to planning control

T16: Development – General parking requirements

N12: Development and the Protection of Trees

### **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 \(2010\)](#)

### **Relevant Planning History**

17/00408/FUL	Conversion & extension of existing garage including glass link to main dwelling. Alterations to vehicle access on Brampton Road & Sunny Hollow	Permitted 2017
15/01075/FUL	Retention of new gate, log store and permeable driveway	Permitted 2016
10/00564/FUL	Detached garage	Permitted 2010

### **Views of Consultees**

The **Landscape Development Section** has been consulted and any comments received will be reported.

### **Representations**

One letter of objection was received which is summarised below

- Loss of light and overbearing impact of the extension when viewed from principal windows to neighbouring property.
- Rear garden area of No.32 is small and would be completely overshadowed
- Design of extension is overly dominant in terms of scale and bulk
- Out-of-character with the area as dwellings on Brampton Road are centrally situated within plots, this would be off centre.

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

The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00976/FUL>

Background Papers

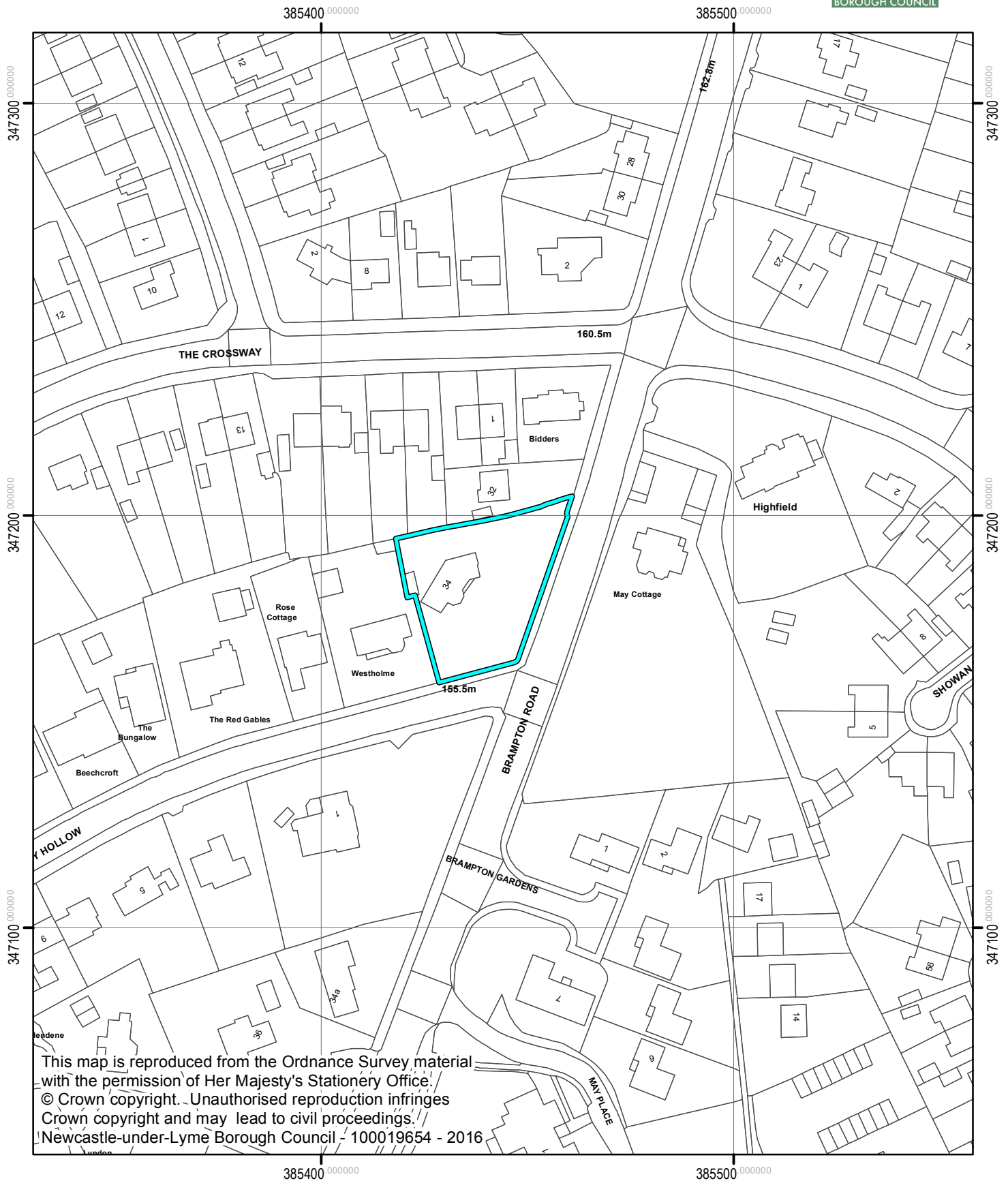
Planning File  
Development Plan

Date report prepared

16<sup>th</sup> January 2018

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**OLD PEEL FARM, NANTWICH ROAD, AUDLEY**  
**MR PETER ADAMS**

**17/00842/FUL**

The application seeks planning permission for an equestrian farm ride 5km long and 5m wide that extends around the perimeter of existing fields. An area of land measuring approximately 4 hectares would also be used for equestrian cross country training.

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

**The statutory 8 week determination period for the application expired on 12<sup>th</sup> December 2017 however the applicant has agreed to extend the determination period until 2<sup>nd</sup> February 2018.**

## **RECOMMENDATION**

**PERMIT subject to the following conditions;**

- 1. Time limit**
- 2. Approved plans**
- 3. Before the proposed development is brought into use, the existing access on Peel Hollow shall be reconstructed and completed to a standard that provides a minimum width of 8 metres for the first 12 metres rear of the carriageway edge and shall be surfaced in a hard bound material.**
- 4. Before the proposed development is brought into use, the access drive shall be constructed with surface water drainage interceptors which shall be sited across the access immediately to the rear of the highway boundary.**
- 5. Prior to first use of the development the parking and turning area indicated on the submitted Site Plan, shall be completed and surfaced in a bound material with the individual parking bays clearly delineated which shall thereafter be retained for parking only for the life of the development.**
- 6. Prior to first use of the development a booking management plan shall be submitted to and approved in writing by the local planning authority to ensure that a maximum of 3 horse boxes/trailers per hour are present at the site at any given time. The approved plan shall thereafter be adhered to throughout the life of the development.**
- 7. Before the proposed development is brought into use the two passing bays on the access road shall be completed and available for use.**
- 8. Any gates shall be located a minimum of 10 m metres rear of the carriageway edge and shall open away from the highway**
- 9. Warning signs erected on the Public Right of Way to avoid conflict between users of the footpath and horses/riders and the post and rail fence shall not obstruct access along the route of the public footpath**

## **Reason for recommendation**

The proposed development, whilst involving inappropriate development within the Green Belt - the change of use of land for the purposes of trekking horses - is considered acceptable as it would not harm the openness of the Green Belt, or the purposes of including land within it. Very special circumstances are considered to exist, as the change of use would go hand in hand with the existing livery use on site, including stables and menage. The development would not harm the character of the rural area and would not adversely affect residential amenity or the local highway.

Further, the development would not harm the character of the rural area, and there would be no adverse impact to highway safety or residential amenity. The development is considered to accord with Policy N20 of the Local Plan, Policies, Policy CSP4 of the Core Spatial Strategy and the aims and objectives of the National Planning Policy Framework.

## **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 is for full planning permission for the use of land as an equestrian farm ride. The farm ride extends about 4.5m-5km in length and 5m wide around the perimeter of existing fields and is to be fenced off from the remainder of the field by a post and rail fence. Up to 100 different portable jumping elements are proposed to be sited along the route.

An additional parcel of land measuring approximately 4 hectares is proposed to be used as a training area for cross country training facilities also including the use of portable horse jumps.

The farm ride and cross country training facilities are to be used from April to September and for the remainder of the year the land will be used for agricultural purposes.

The existing site was granted planning permission in 2013 for equestrian use as a livery yard, including a ménage and installation of lighting units. The facilities are operated as a livery business.

The application site is located within the Green Belt and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map. The nearest residential property is some distance away from the application site and it is not considered that residential amenity will be adversely affected. As such the main considerations in the determination of this application are as follows: -

- Whether or not the proposal would constitute appropriate development
- The impact of the proposals on the character and appearance of the landscape
- Whether there would be any impact on highway safety
- If inappropriate development in the Green Belt whether the required very special circumstances exist

### **Is the development appropriate or inappropriate development within the Green Belt?**

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

The NPPF further indicates in paragraphs 89 and 90 that local planning authorities should regard new buildings and certain other forms of development within the Green Belt as inappropriate. A change of use of land is not, however, listed as appropriate development and as such should not be approved except in very special circumstances. Whether there are very special circumstances to justify the granting of planning permission in this case will be addressed below.

### **Impact on the character of the area**

It is not proposed that the farm ride area is surfaced but would be surrounded by a post and rail fence which is considered to be in keeping with the rural character within the area. The cross country training area and the farm ride would include a number of moveable jumps that are temporary in nature and could be put away when not in use. The most permanent element of the proposal would be the hardstanding for parking and access. These are located in close proximity to existing farm buildings and hard surfaced areas. The introduction of such additional areas of hard surfacing would not, in this context, have an adverse visual impact.

### Highway Safety and car parking

The proposals will result in additional vehicular movements onto the site however it is considered that the access is suitable for such additional vehicular movements, subject to its reconstruction to ensure that it is of an appropriate width.

The Highway Authority has raised no objections to the proposal, subject to conditions. Subject to the imposition of such conditions the proposal would not adversely affect highway safety and would comply with paragraph 32 of the NPPF.

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

As indicated above, the element of the proposal involving a change of use of the land is considered to be inappropriate development, and the Authority has to now go on to weigh up and balance any elements of harm associated with the proposal against any other material considerations.

The NPPF states in paragraph 88 that when considering planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other circumstances.

No harm to the Green Belt's openness or to any of the purposes of including land within the Green Belt arises from the use in question, and the use - that for the purposes of trekking and training horse in cross country jumping - is directly connected with the outdoor sport and recreation which are activities that are appropriate and acceptable in the Green Belt.

In conclusion the required very special circumstances can be considered to exist in this case.

### Other Material Considerations

Footpath No.13 runs to the west of the application site. The proposal does not include any application for the diversion of the footpath, and it is noted that the applicant is not entitled to fence off the Public Right of Way where access must be granted at all times.

The County Council note that to the north of the farm ride area that sight lines are poor, and given the potential conflict between both users that warning signs should be erected at the point where it enters Mill Dale. This is considered reasonable and necessary, and can be addressed via condition.

## **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 T16: Development – General Parking Requirements  
Policy N20: Areas of Landscape Restoration

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

#### National Planning Policy Framework (NPPF) (2012)

#### Planning Practice Guidance (PPG) (2014)

#### Relevant Planning History

17/00554/FUL	Equestrian Farm Ride	Withdrawn
16/00525/FUL	Erection of an extension to existing stables to form 5 new stables, tack room, feed store and formation of hard standing area	Permitted 2016
13/00269/FUL	Change of use of land to livery yard, agricultural building to stable block, formation of ménage and installation of lighting units.	Permitted 2013

#### Views of Consultees

**Audley Parish Council:** Support the application

**Highway Authority:** No objections to the development subject to conditions relating to, the reconstruction of the access in bound materials; surface water drainage interceptors; provision of parking and turning prior to first use; booking management plan to be approved; construction of two passing bays; and any gates to be a minimum of 10m from the carriageway of the highway.

**Public Rights of Way:** public footpath no.13 crosses the ride and the expectation is that the applicant should leave gaps in the fencing or install pedestrian gates. Sight lines should be considered to limit possibility of conflict between the users of the footpath and horses/riders using the proposed farm ride and it is suggested that warning signs are put up for the benefit of all parties.

#### Representations

One letter of objection has been received raising concerns that there are already too many vehicles entering and leaving this site on a bad part of the road junction and bad bend.

Applicant/agent's submission

The application is supported by a Planning Application, Plans and Protected Species Survey.

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/17/00842/FUL>

Background Papers

Planning File  
Development Plan

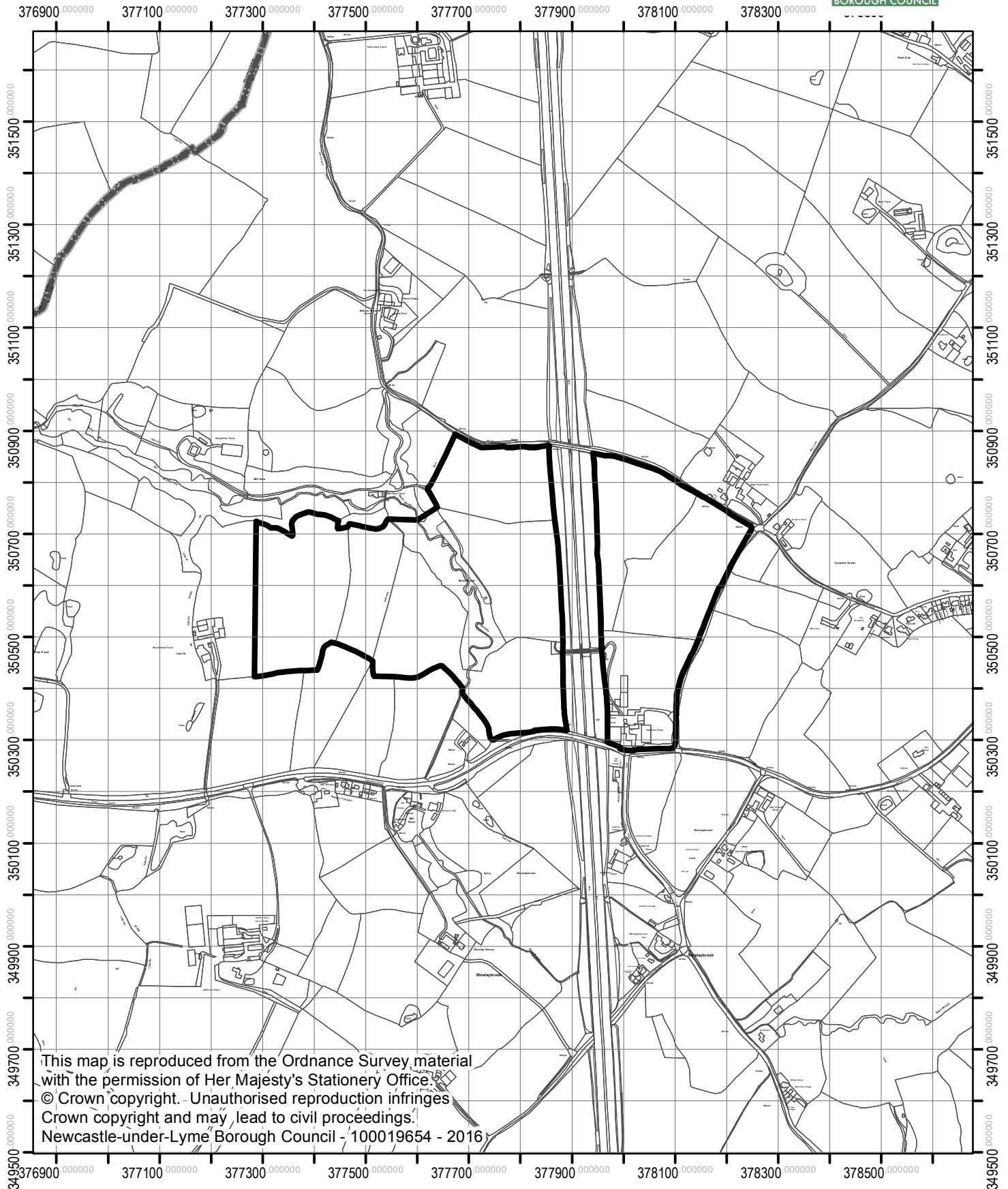
Date report prepared

16<sup>th</sup> January 2018

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**17/00842/FUL**  
**Old Peel Farm**  
**Nantwich Road**  
**Audley**



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**APPEAL BY MR PHILIP GIBSON AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR THE ERECTION OF A DETACHED DWELLING AT 3 DALES GREEN ROAD, ROOKERY, KIDSGROVE**

<b><u>Application Number</u></b>	<b>16/01008/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated powers 21 March 2017</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Costs Decision</u></b>	<b>Refused</b>
<b><u>Date of Appeal and Costs Decisions</u></b>	<b>09 January 2018</b>

## **The appeal decision**

The full text of the appeal decision is available to view via the following link  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/16/01008/FUL>

The Inspector considered that the main issues in this case are;

- whether the proposed development is inappropriate development in the Green Belt,
- the effect on the openness of the Green Belt,
- whether the proposed development would be a suitable location for housing,
- the effect on the living conditions of the future occupants of the replacement dwelling at 3 Dales Green Road with particular regard to outlook and light; and,
- if the proposed development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

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

### *Green Belt*

- The proposed development is to erect a detached dwelling within the garden of the existing property. The appeal lies in between the Rookery and Mow Cop. Both are settlements and have a range of services and facilities. Dales Green consists of ribbon development along Dales Green Road from Mow Cop Road. This development includes detached and semi-detached dwellings as well as farms and extends along the western side of Dales Green Road down to close to the appeal site.
- Whilst Dales Green, along Dales Green Road, is an extension of Mow Cop, the gap between Dales Green Farm and the appeal site is sufficiently expansive and open that it is difficult to conclude that the appeal site lies within the village. It is considered that the appeal site is in open countryside.
- However, even if it was found that the appeal site was in the village, the proposed development would not constitute limited infilling. Limited infilling has tended to be defined as the filling of a gap in an otherwise built up frontage. Whilst situated between two dwellings, it is considered that the appeal site is not a gap in an otherwise built up frontage given the expansive open areas of countryside to the north and south of the dwellings.
- Regard was had to the appeal and the Council decisions referred to the Inspector. No. 14 Dales Green Road lies on the opposite side of the road to the appeal site and closer to Mow Cop. It is part of the ribbon development on that side of the road and the development which was proposed was considered to be filling a gap in the otherwise built up frontage.

- The Inspector concluded that the circumstances of the decisions were different to those of the current case and in any event, the case has been determined on its merits and on the basis of the evidence.
- The Inspector concluded that the proposed development would constitute inappropriate development in the Green Belt as it would not represent limited infilling in a village.
- A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework is to keep land permanently open. The construction of a new detached dwelling on the site would result in built development where there is none at present. It would impact on views across to the hills and fields behind the appeal site. The dwelling and its domestic accoutrements would inevitably lead to a loss of openness in this open countryside location.
- For these reasons the proposed development would lead to a significant loss of Green Belt openness.

#### *Suitable location for housing*

- Paragraph 55 of the Framework seeks to locate new housing where it will enhance or maintain the vitality of rural communities. Isolated homes in the countryside should be avoided unless there are special circumstances.
- The appeal site lies some distance from the shops and services in Mow Cop or Mount Pleasant. The nearest primary school is around 650m walking distance away in Mow Cop. Whilst there is a footpath for the majority of the route into Mow Cop, there is no footpath between the appeal site and the end of the ribbon development on the eastern side of Dales Green Road.
- Mow Cop Road between Dales Green Road and Mount Pleasant is narrow and does not have a pavement for much of its length. This does not encourage walking and the gradient from the appeal site to Mow Cop or Mount Pleasant does not encourage cycling.
- It is considered that the proposed development would not represent isolated housing in the countryside given the proximity of the appeal site to existing housing in Dales Green. However, for the reasons set out above, it is likely that the occupants of the proposed house would tend to rely on a motor vehicle for accessing services in Mow Cop, Mount Pleasant and other settlements, and that the appeal site is not in a sustainable location for housing having regard to the core planning principle of the Framework which seeks to make the fullest possible use of public transport, cycling and walking. The Inspector concluded therefore that the appeal is not a suitable location for housing.

#### *Living conditions*

- The design of the replacement dwelling for 3 Dales Green Road granted planning permission and which has commenced, includes principal windows which would overlook, at close quarters, the dwelling proposed in the current case. This would result in the potential for a poor outlook from, and loss of light to, the replacement dwelling. This was a reason for refusal.
- The Council and the appellant have agreed that a Section 106 agreement could be made which would have the effect of ensuring that the principal windows in the elevation facing the appeal site would not be inserted. This would be achieved by an agreement not to implement the first permission but instead implement a second permission for the replacement dwelling, the design of which does not have any principal windows on the elevation overlooking the appeal site. The appellant has submitted a certified copy of a unilateral undertaking dealing with this matter. However, whilst the parties have agreed the principle, the wording of the agreement has not yet been resolved to the satisfaction of both parties.
- If the appeal were allowed, an agreement along the lines proposed by both parties would be a satisfactory way of addressing this matter. Since the appeal is being dismissed on other grounds however, it has not been necessary to consider this matter in any further detail.

## *Conclusion*

- The proposed development would be inappropriate development in the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition there are significant adverse effects on openness. In accordance with paragraph 88 of the Framework, substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. The appeal site is not a suitable location for housing given that its occupants would have to rely on a motor vehicle to access services and facilities.
- Only limited weight has been given to the contribution to addressing five year land supply issues and economic benefits given that the proposal is only for one dwelling. The substantial weight to the Green Belt harm is not clearly outweighed by the benefits and other considerations sufficient to demonstrate very special circumstances.
- For the reasons given above, and having considered all matters raised, the appeal should be dismissed.

## **The Costs Decision**

In refusing the award of costs, the Inspector made the following comments:

- The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
- The appellant submits that the Council has acted unreasonably and cites four examples of unreasonable behaviour which he considers the Council has exhibited. These are: lack of co-operation with the other party; delay in providing information; failure to produce evidence to substantiate each reason for refusal; and, vague, generalised, or inaccurate assertions which are unsupported by any objective analysis.
- The appellant states that the Council has demonstrated a lack of co-operation in relation to the drafting of the unilateral undertaking. There is little evidence to support this claim.
- The Council's comments on the draft agreement are reasonable and include points of clarification as well as issues of grammar and presentation. Whilst it would have been very helpful if those comments were made earlier than 7 December such that discussions could have taken place and a revised version presented, the Inspector was not convinced that this amounts to behaviour so unreasonable as to justify an award of costs.
- The appellant claims that the first two reasons for refusal are based upon an assertion and not supported by objective analysis. These reasons for refusal relate to Green Belt and unsuitable location matters.
- Policy S3 of the Newcastle upon Lyme Local Plan is still part of the development plan and the Council was entitled to refer to it in the determination of planning applications which relate to Green Belt. Whilst Inspectors have found that it is inconsistent with the National Planning Policy Framework (the Framework), the weight to be attached to it is a matter for the decision taker. The Council also have made numerous references to the Framework in the Decision Notice, in the Committee report and in the statement of case.
- The Council has acknowledged the need for housing in the Decision Notice as there is a specific reference to not being able to demonstrate a five year supply of housing land. The Council report did not make reference to the appeal decisions which the appellant refers to in his statement, but the Council is not obliged to do so if it does not consider that they are material to the determination of the application.
- There is no evidence to support the appellant's assertion that the Council relied upon immaterial considerations and refused to give weight to material ones, nor that the application was handled without regard to proper planning principles or without analysis.

- It was therefore found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, had not been demonstrated.

**Your Officer's comments**

That the appeal decision and the refusal of the award of costs be noted.

## **Confirmation of Tree Preservation Order**

### **LAND AT MANDALAY, TOWER ROAD, ASHLEY HEATH.**

#### **Tree Preservation Order No.188 (2017)**

Town & Country Planning Act 1990

Town & Country Planning (Tree Protection) (England) Regulations 2012

**The Order** protects an oak tree situated in the grounds of Mandalay, Tower Road, Ashley Heath. The Order was made to safeguard the longer term visual amenity that the tree provides after an application, which included removal of TPO and non-TPO trees on the property, was made to the Council showing it to be felled. It is considered that its loss would compromise the visual amenity of the trees the area.

The Order was made using delegated powers on 22 September 2017. Approval is sought for the Order to be confirmed as made.

**The 6 month period for this Order expires on 22 March 2018.**

## **RECOMMENDATION**

That Tree Preservation Order No 188 (2017), land at Mandalay, Tower Road, Ashley Heath, be confirmed and that the owners of the site be informed accordingly.

## **Reasons for Recommendation**

Your officers are of the opinion that the longer-term visual amenity of the tree is best secured by the making of a Tree Preservation Order. Your officers are of the opinion that the tree is generally healthy at present and of sufficient amenity value to merit the making of a Tree Preservation Order. It is considered to be an appropriate species for the locality and provide public amenity value due to its form and visibility from public locations. The making of the Order will not prevent the owner from carrying out good management of the tree and it will give the Council the opportunity to control the works and prevent unnecessary cutting down, lopping, topping, uprooting, wilful damage or wilful destruction. The owner will be able to apply for permission to carry out maintenance work to the tree which is necessary to safely manage it.

## **Representations**

A letter from the occupants of adjoining property has been received. It states that the tree is close to the border and to both houses. It questions the condition of the tree and says that many branches have fallen from it, including a large branch that caused damage to their conservatory. An agreement with the previous owner of Mandalay to carry out work to the tree was subsequently prevented by the owner. Concern remains of further threat to property and life from falling branches, root damage and the tree falling. It is felt that the TPO has been made without thoughtful consideration and that the tree offers no real beauty in its present state.

## Issues

The tree is situated within the grounds of Mandalay close to the north-eastern boundary with Bracken End. It is clearly visible from Tower Road and is a significant feature. It provides an important contribution to the area.

An application to fell 7 trees on the property was made to the Borough Council, in August 2017, application number 17/00706/TWA. This included 2 trees that were covered by a TPO and permission was given to fell these, however it was considered that the oak tree which was not covered should be retained, and a Provisional Order was made to protect it. The application to fell the tree was subsequently refused. The Council made no objection to the removal of the remaining trees.

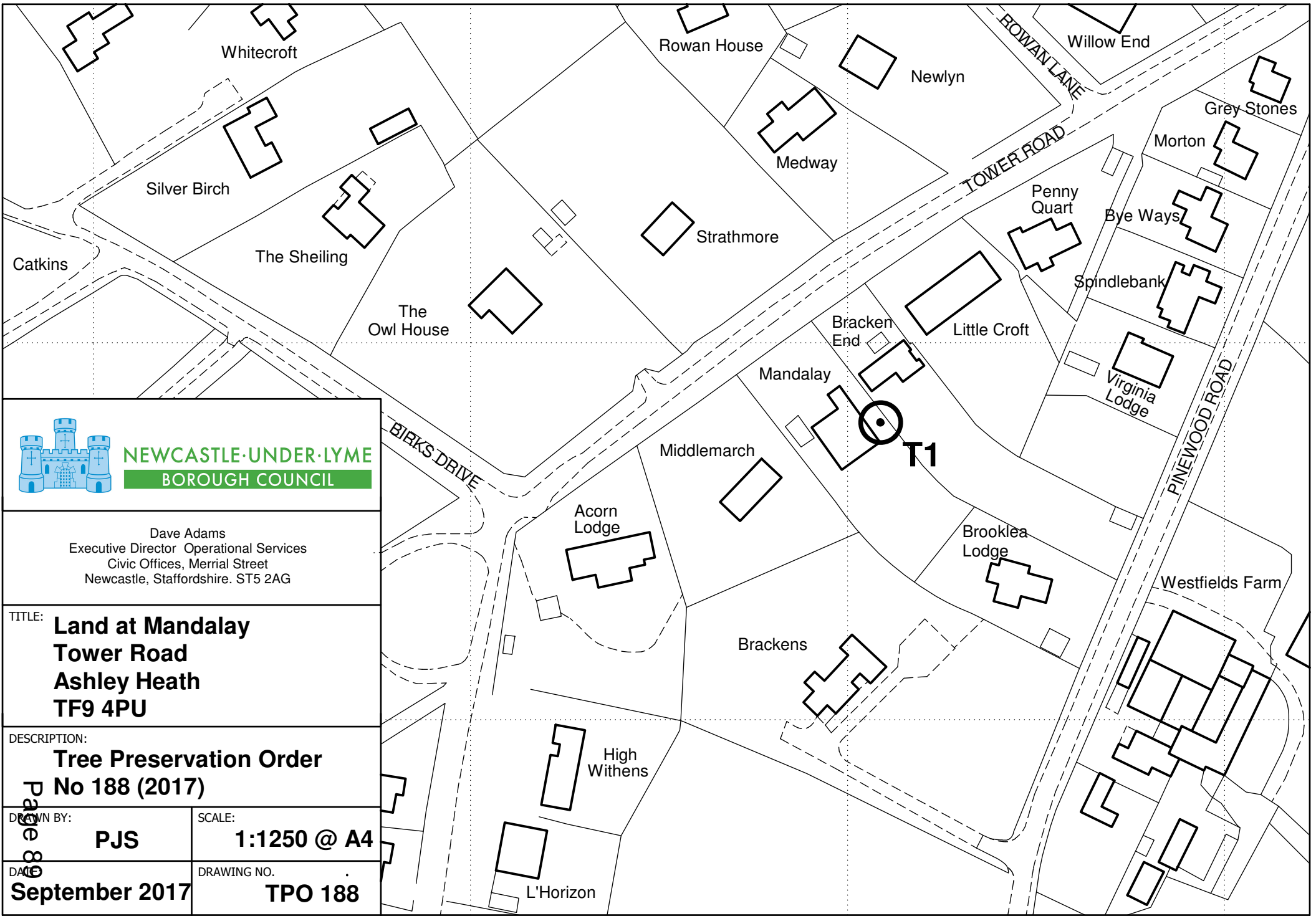
Your officers inspected the tree and carried out a TPO assessment. It is considered to be in good health, visually significant and an amenity to the locality, with the prospect of continuing to provide this for many years. It is considered that felling the tree would have a detrimental effect on the visual amenity, not only of the site but also to the locality. The Order was made and served on 22<sup>nd</sup> September 2017 in order to protect the long term well-being of the tree.

The concerns of the neighbour have been considered and it is the view of your officers that although the tree is in need of work, and subject to a detail arboricultural report, there is nothing to currently suggest it should be felled. The principal problem appears to be with falling deadwood and defective branches, and this can normally be resolved by crown cleaning the tree. No evidence has been provided with regard to damage to property by roots.

### Date report prepared

14 January 2018





Dave Adams  
 Executive Director Operational Services  
 Civic Offices, Merril Street  
 Newcastle, Staffordshire. ST5 2AG

TITLE: **Land at Mandalay  
 Tower Road  
 Ashley Heath  
 TF9 4PU**

DESCRIPTION: **Tree Preservation Order  
 No 188 (2017)**

DRAWN BY: **PJS**

SCALE: **1:1250 @ A4**

DATE: **September 2017**

DRAWING NO.: **TPO 188**

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