

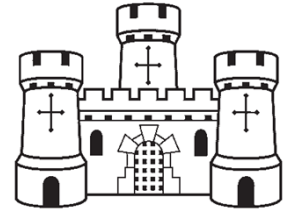
Public Document Pack

Date of meeting Tuesday, 9th October, 2018

Time 7.00 pm

Venue Astley Room - Castle House

Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

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)**
To consider the minutes of the previous meeting(s)... **To follow**
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - FORMER BENNETT ARMS, LONDON ROAD, CHESTERTON. MR ANDREW GREEN. 18/00371/FUL** (Pages 3 - 14)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - FORMER GARAGE, CEMETERY ROAD, SILVERDALE. ASHBOURNE PROPERTY HOLDINGS LTD. 18/00293/OUT** (Pages 15 - 24)
- 6 **APPLICATION FOR MAJOR DEVELOPMENT - 2 - 4 MARSH PARADE, NEWCASTLE UNDER LYME. MARSH BOX DEVELOPMENTS. 17/00722/FUL** (Pages 25 - 28)
- 7 **APPLICATION FOR MAJOR DEVELOPMENT - CONSULTATION BY STOKE ON TRENT CITY COUNCIL - LAND AT NEW INN LANE, KINGS ROAD AND THE JUNXTIONS OF MAYNE STREET, STONE ROAD AND THE A500, HANFORD ROUNDABOUT HANFORD. 62988/HYB - (NBC 348/256)**
Report to follow
- 8 **APPLICATION FOR MINOR DEVELOPMENT - NEW FARM, ALSAGER ROAD, AUDLEY. MR. EMERY. 18/00122/FUL** (Pages 29 - 40)

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| 9 | APPLICATION FOR MINOR DEVELOPMENT - FORMER HALMEREND WORKING MENS CLUB. KELLY HOMES. 18/00329/FUL | (Pages 41 - 52) |
| 10 | APPLICATION FOR OTHER DEVELOPMENT - OLD HALL, POOLSIDE, MADELEY. CLLR G WHITE. 18/00620/LBC | (Pages 53 - 58) |
| 11 | APPEAL DECISION - LAND AND BUILDINGS TO THE NORTH OF THE HAVEN, BUTTERTON. 18/00082/FUL | (Pages 59 - 60) |
| 12 | APPEAL DECISION - WAGGON AND HORSES, NANTWICH ROAD, AUDLEY. 18/00121/OUT | (Pages 61 - 62) |
| 13 | APPEAL DECISION - MACDONALDS, BRADWELL. 17/00856/OUT | (Pages 63 - 64) |
| 14 | TREE PRESERVATION ORDER - LAND AT SUNNYSIDE, PINWOOD DRIVE, LOGGERHEADS. TPO194 | (Pages 65 - 72) |
| 15 | TREE PRESERVATION ORDER - EVERGREEN, MANOR ROAD, BALDWINS GATE. TPO195 | (Pages 73 - 76) |
| 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, Mrs J Cooper, Fear (Chair), Maxfield, Northcott, Pickup, Proctor, Reddish (Vice-Chair), Spence, S Tagg, G Williams and J Williams

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.

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 THROUGH THE FIRE EXIT DOORS.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

FORMER BENNETT ARMS, LONDON ROAD, CHESTERTON
MR ANDREW GREEN

18/00371/FUL

The application seeks full planning permission for the erection of 14 dwellings

The site lies within the urban area of Chesterton, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.25 hectares

Access is proposed off London Road and the site was previously occupied by the Bennett Arms Public House which was demolished a number of years ago.

The statutory 13 week determination period for this application expired on the 9th August but the applicant has agreed an extension of time to the statutory determination period to the 16th October.

RECOMMENDATION

A. Subject to

(i) the receipt and consideration of further Lead Local Flood Authority comments,
(ii) confirmation first being received from the District Valuer that no policy compliant contributions can be made at all, and
(iii) the applicant first entering into a Section 106 agreement by the 21st November 2018 to secure a review mechanism of the scheme's ability to make policy compliant contributions to public open space and education places, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such contributions if found financially viable, PERMIT the application subject to conditions relating to the following matters:-

1. Standard time limit for commencement of development
2. Approved plans
3. Materials
4. Boundary treatments
5. Proposed finished ground levels and first floor levels
6. Implementation of landscaping plan
7. Tree protection measures
8. Revised access details
9. Provision of road, parking and turning areas
10. Surfacing, surface water drainage and delineation of car parking spaces;
11. Scheme for the allocation of car parking spaces;
12. Existing site access made redundant and the crossing reinstated;
13. Access shall remain ungated;
14. Construction management plan
15. Waste collection arrangements
16. Environmental Management Plan
17. Land contamination
18. External lighting
19. Design measures to control noise impact on future occupiers
20. Noise assessment
21. Flood risk mitigation measures
22. Submission and approval of SuDS

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

Reason for recommendation

The development is located within a highly sustainable urban area, primarily on previously developed land, and there is a strong presumption in favour of sustainable development, which results in the development being considered acceptable in principle. The design of the scheme, highway safety and noise impacts are considered acceptable subject to conditions. It is also accepted, following the obtaining of independent financial advice, that the scheme is not viable with policy compliant financial contributions towards education places and public open space, and whilst these policy compliant requirements are not sought, given the contribution the development makes to housing supply and the regeneration of this part of Chesterton, a Section 106 agreement should be secured to achieve a review mechanism should substantial commencement not be achieved promptly. Confirmation from the District Valuer is being sought that no policy compliant contributions at all can be provided.

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

Officers of the LPA have allowed the applicant time to address concerns during the application to resolve any matters and whilst this has resulted in delays in the determination of the application a positive recommendation has now been possible. The proposed development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework (NPPF).

KEY ISSUES

1.1 The application seeks full planning permission for the erection of 14 dwellings with associated landscape works and car parking.

1.2 The site was previously occupied by the Bennett Arms public house, which was demolished a number of years ago following the granting of planning permission (09/00155/FUL) for the demolition of the public house and the erection of seven dwellings. It is accepted that a material commencement of this development was achieved at that time but the development was not completed and the site has remained undeveloped since.

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

- The principle of residential development
- The design and impact on the character and appearance of the area
- Car parking and highway safety
- Residential amenity matters
- Planning obligation considerations
- Flood risk considerations

2.0 The principle of residential development

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

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

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

2.4 The NPPF seeks to support the Government's objective of significantly boosting the supply of homes. It also sets out that there is a presumption in favour of sustainable development.

2.5 The land is located in the urban area within an area of mixed land use and the principle of housing development on the land has been accepted previously. It is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and employment opportunities.

2.6 The proposed development complies with local and national planning policy guidance. The construction of 14 dwellings would contribute to the area's housing supply and the principle of residential development on this site is considered acceptable.

3.0 The design and impact on the character and appearance of the area?

3.1 Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 127 of the Framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

3.2 The site is within a mixed area and sits on an important approach route into Chesterton.

3.3 The proposal is for a mix of two storey and two and a half storey town houses with six of the proposed dwellings fronting London Road. The access point for the development is also proposed to be off London Road. The remaining houses will be formed by two further blocks within the site with a car parking court arrangement proposed.

3.4 The matter was considered at a Design Review panel and necessary amendments were made to the scheme. The main change has been a more rationalised and simplified design and layout. The application is also supported by a landscape plan which demonstrates that there is some, albeit limited, opportunity to provide soft landscaping to the front of the dwellings that front London Road. The use of appropriate materials and boundary treatments would also ensure an acceptable appearance for the proposed development.

3.5 It is noted that the design and scale of the proposed dwellings would not be similar to the nearest residential properties on Leech Avenue, which have a traditional, uniform semi-detached appearance but the design and appearance of the proposed development would not harm the visual integrity of the streetscene or wider visual amenity of the area. The land has been left undeveloped for a number of years and the proposed development, particularly the buildings that front London Road, would enhance the appearance of this important approach route into Chesterton. The proposal is considered to be in accordance with policy CSP1 of the CSS and the guidance and requirements of the NPPF.

4.0 Residential amenity matters

4.1 Paragraph 127 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.2 Existing properties that front Leech Avenue have a rear outlook towards the application site. The submitted site layout plan shows the relationship between existing and proposed dwellings with distances specified. In this respect the front elevations of plots 7-10 would face towards the rear elevations of properties on Leech Avenue which are likely to have principal windows at ground floor and first floor. The separation distance specified is 23.4 metres and the Council's SPG – Space Around Dwellings advises that where a two storey dwelling faces a dwelling of a similar scale the distance between principal windows should be 21 metres. It is acknowledged that plots 7-10 are two and a half storey in height but the rooms within the roof space are not categorised as having principal windows and the additional 2.4 metre separation distance would help to ensure acceptable amenity levels for the existing occupiers on Leech Avenue. Furthermore, sections plans have been submitted which show that the proposed dwellings would be on a lower finished ground level.

4.3 The Council's SPG indicates that for a three bedroom dwelling a private garden area of 65 square metres should be provided. Plots 4, 5, 7, 10, 12 & 13 all have rear gardens significantly less than the guidance but these areas would still ensure that the future occupiers would have outdoor space to sit out and for children to play. The shortfall of private amenity space for the future occupiers of the plots specified is a concern but there are a number of areas of public open space within walking distance of the site which would, to a certain extent, meet the needs of the occupiers also.

4.4 The Environmental Health Division has advised a number of conditions to protect future occupiers from noise impacts of the nearby industrial estate.

5.0 Car parking and highway safety

5.1 The access to the site would be taken off London Road with off street car parking provision being via a parking court. The proposal provides 22 off street car parking spaces.

5.2 NLP policy T16 states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem. The NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. LPAs have also been encouraged not to set maximum limits on the amount of parking either.

5.3 The parking standards identified in the Local Plan indicates that for two or three bedroom dwellings, which are being proposed here, a maximum of two off street car parking spaces should be provided per dwelling. In this instance there are just over 1.5 spaces per dwelling.

5.4 The Highways Authority has raised no objections subject to a number of conditions, in particular the submission and approval of improved access arrangements and a car park management scheme which sets out how the car parking spaces will be allocated.

5.5 Whilst there is a shortfall in terms of the maximum specified car parking levels set out in Local Plan policy T16 the site is situated in a sustainable urban area with a bus stop directly outside the application site. The site is also within walking distance of shops in Chesterton, employment opportunities and education facilities which are in close proximity to the site. Therefore, the proposal would provide opportunities for other modes of travel other than the use of a private motor vehicle. The Highway Authority must be presumed to consider that the development would not result in an unacceptable impact on highway safety.

5.6 Subject to the advised conditions the proposed development is considered unlikely to lead to significant highway safety implications because an acceptable level of off street car parking is proposed and the access position is acceptable. The development would therefore meet the guidance and requirements of the NPPF.

6.0 Planning obligation considerations

6.1 The development of 14 houses does not trigger a requirement for affordable housing but a financial contribution of £33,244 towards secondary education places has been requested by the Education Authority who advise that a development of this size could add 3 primary school aged children and 2 secondary school aged children. Whilst Churchfields Primary School is projected to have sufficient space to accommodate the likely demand from pupils generated by the development, Chesterton Community Sports College is projected to be full for the foreseeable future so they advise that a contribution is required.

6.2 A financial contribution of £78,106 towards the improvement and maintenance of public open space (POS) has also been requested and is required to make the development acceptable. This would make the development policy compliant and 'sustainable'. The contribution towards POS is sought for improvements to playground facilities at Bamber Place which is a 650 meter walk from the site, or Chesterton Park which is a 920m meter walk, or to open space facilities off Sheldon Grove which is immediately adjacent to the site, or Golf Course Walks which is 240 meter walk. It is considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, to be directly related to the development and fairly and reasonably related in scale and kind to the development.

6.3 It is also necessary to consider whether the financial contributions sought comply with Regulation 123 of the CIL Regulations. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type

of infrastructure have already been entered into since 6 April 2010. Regulation 123 would be complied with in this instance.

6.4 The financial contributions set out above were also requested during the determination of a previous planning application (17/00627/FUL) for a similar development - this application was subsequently withdrawn. At the time the applicant advised your officers that the scheme would be financially unviable with policy compliant financial contributions towards education places and Public Open Space. This resulted in independent advice being obtained from the District Valuer (DVS) who produced a financial viability report in April 2018. The report of the DVS concluded that the scheme is unviable with any level of financial contributions. However, the report does make reference to the scheme being marginally viable without the requested contributions and your officers are now considering whether to seek further advice from the DVS about whether the deferment of the requested payments would make the scheme viable with some level of financial contributions to either education places and/ or public open space. A further update will be provided which considers this matter prior to the meeting.

6.6 The new NPPF marks a significant change in the approach to be adopted to viability in planning decisions. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised. The scheme does provide benefits which include the redevelopment of a site that has been left undeveloped for a number of years and has had a detrimental impact on the visual amenity of the area. The development would also contribute to housing supply in the Borough and assist in particular in the regeneration of the Chesterton area where there have been a number of "stalled" housing sites in recent years. These benefits are considered to outweigh the harm caused by the additional demand created by the development on the infrastructure of the area that would be the result were no financial contribution made to adding to that infrastructure.

7.0 Flood Risk Matters

7.1 Paragraph 155 of the NPPF advises that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." It also states in para. 165 that "Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate."

7.2 The LLFA advises that in the absence of a Flood Risk Assessment (FRA) planning permission should not be granted because there is a flood risk from surface water flows. A suitable sustainable drainage strategy has also not been submitted. This would be contrary to the precautionary approach advised in the NPPF.

7.3 Following the comments of the LLFA a FRA has now been submitted to support the application which indicates that this site is within flood zone 1 - a 'low probability' of fluvial flooding. It is also acknowledged within the FRA that a SuDS scheme should be developed for the site which should include designs to incorporate the existing watercourses noted on the historic plans, the spring and the existing culvert. The FRA concludes that planning conditions, that require both the use of SuDS and integration of the site's drainage into the local area's infrastructure, would provide the LPA and the Lead Local Flood Authority with 'control' over the final design.

7.4 Your officers have sought further advice on the submitted FRA from LLFA and your officers are waiting for their further comments. Any comments received will be reported prior to the committee meeting.

APPENDIX

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

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

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

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas

Other material considerations include:

National Planning Policy Framework (July 2018)

Planning Practice Guidance (March 2014, as updated)

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

Supplementary Planning Guidance/Documents

Developer contributions SPD (September 2007)

Newcastle-under-Lyme Open Space Strategy – adopted March 2017

Space Around Dwellings SPG (SAD) (July 2004)

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

Waste Management and Recycling Planning Practice Guidance Note approved in 2003 and last updated in February 2016

Relevant Planning History

Planning permission was granted under planning application reference 09/00155/FUL for the demolition of the existing public house and erection of seven dwellings. The public house was demolished and construction of at least two of the dwellings commenced but no further work was carried out.

A planning application was also submitted under planning application reference 17/00627/FUL for 14 two and three storey terraced houses in three blocks. This application was subsequently withdrawn by the applicant.

Views of Consultees

The **Education Authority** states that the proposed development falls within the catchments of Churchfields Primary School and Chesterton Community Sports College.. The development is scheduled to provide 14 dwellings and a development of this size could add 3 Primary School aged

pupils and 2 High School aged pupils. Churchfields Primary School is projected to have sufficient space to accommodate the likely demand from pupils generated by the development. However, Chesterton Community High School is projected to be full for the foreseeable future. Therefore an Education Contribution for 2 High School places (2 x £16,622 = £33,244.00) is sought.

The **Highway Authority** raises no objections subject to conditions that secure the following;

- submission and approval of revised access details;
- no occupation of the dwellings until the road, parking and turning areas have been provided;
- submission and approval of surfacing, surface water drainage and delineation of car parking spaces;
- submission and approval of car park management scheme;
- existing site access made redundant and the crossing reinstated;
- provision of a sign indicating a private road at the new access;
- the access shall remain ungated; and
- submission and approval of a construction management plan.

The **Environmental Health Division** raises no objections subject to conditions that secure the submission and approval of a construction and Demolition – Environmental Management Plan, land contamination matters, prior approval of external lighting, design measures to control noise impact levels on future occupiers, and the submission and approval of an assessment of the potential impacts arising from noise from the Holditch Industrial Estate.

The **Landscape Development Section** raises no objections subject to conditions which secure tree protection to retained and overhanging trees and landscaping proposals to be in accordance with the plans provided.

They also request a financial contribution for capital development/improvement of offsite open space of £4,427 in addition to £1,152 (per dwelling) for 60% of maintenance costs for 10 years. Total contribution £5,579 (per dwelling). The money to be used for improvements to the playground facilities at Bamber Place which is a 650 meter walk from the site, or Chesterton Park which is a 920m meter walk, or to open space facilities off Sheldon Grove which is immediately adjacent to the site, or Golf Course Walks which is 240 meter walk.

Staffordshire County Council Flood Risk Team (LLFA) advises that in the absence of a Flood Risk Assessment (FRA) they recommend that planning permission should not be granted because the Surface Water Flood Map indicates that the site is affected by a flow path from the NE and potential ponding in the SW and site access. There is also a culverted watercourse shown to adjacent to the SW site boundary. In the absence of any analysis, the flood risks resulting from the proposed development are unknown. The absence of any analysis is therefore sufficient reason in itself for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in NPPF. There is insufficient information to demonstrate an acceptable Sustainable Drainage Strategy in accordance with the non-statutory technical standards for SuDS (DEFRA, 2015), Local Planning Policy (Staffordshire SuDS Handbook) and good practice guidance (CIRIA SuDS Manual).

The LLFA have been consulted on the recently submitted FRA and their comments are awaited. The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** welcome the redevelopment of this site which has been an eyesore for a number of years. They raise no objections to the layout but advise that plots 1 and 6 in particular (but also plots 11 and 14) do not show (lockable) gating or fencing to the side of the properties. Other improvements to boundary treatments are also recommended.

The **Waste Management Section** raise no significant objections but require further information on waste collection arrangements.

Comments were also invited from the **Environment Agency, the Housing Strategy Section** and the **Greater Chesterton Locality Action Partnership** and in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

Representations

Five letters of representation have been received raising the following objections and concerns;

- The public have objected to previous applications,
- The land floods,
- There is Japanese Knotweed on the land,
- Extra air pollution from biomass system,
- Overshadowing, loss of light and privacy to neighbouring properties,
- The existing bus stop is not on the plans and plots 1 - 6 encroach onto the public highway,
- The site is too small for 14 dwellings,
- Increased traffic and congestion on already busy roads,
- Some of the plots have very small gardens which is contrary to policy,
- The houses nearest London road need to be protected from noise,
- How can garden waste bins be emptied?
- It represents overdevelopment of the site.
- Inadequate parking provision and access arrangements,
- The area is prone to subsidence with some houses on Leech Avenue previously affected

Applicant/agent's submission

All of the application documents can be viewed on the Councils website using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00371/FUL>

Background Papers

Planning File

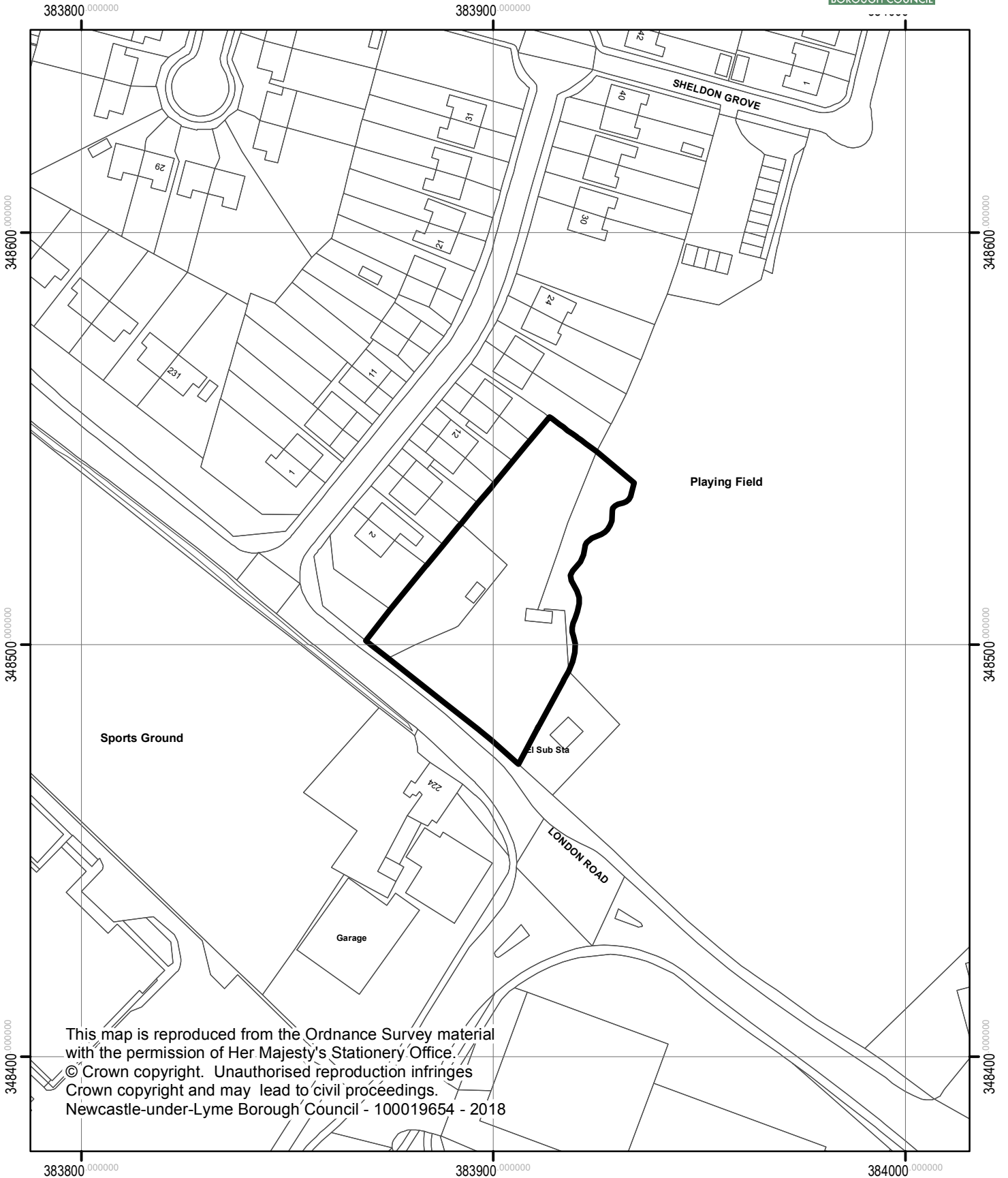
Development Plan

Date report prepared

24th September 2018

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The Bennett Arms
London Road
Chesterton



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FORMER GARAGE, CEMETERY ROAD, SILVERDALE
ASHBOURNE PROPERTY HOLDINGS LTD.

18/00293/OUT

The application is for outline planning permission for 38 residential units, 19 of which are proposed as apartments. All matters at this stage are reserved.

The proposal involves the redevelopment of a brownfield site, approximately 0.7148 hectares on the western side of Cemetery Road, Silverdale, immediately opposite the Walleys Quarry Landfill Site within the major urban area of Newcastle as indicated on the Local Development Framework Proposals Map.

The statutory 13 week determination period for the application expired on 25th September but the applicant has agreed an extension to the statutory period until 11th October 2018.

RECOMMENDATION

- A. Subject to the applicant first entering into a Section 106 agreement by 21st November 2018 to securing the following:**
- i. a contribution of £5,579 per dwellings towards off site public open space at Park Road**
 - ii. In perpetuity, provision of 25% of the dwellings on-site as affordable units.**

PERMIT the application subject to conditions relating to the following matters:-

- 1. Time Limit for submission of reserved matters**
- 2. Approved Plans**
- 3. Construction Environmental Management Plan**
- 4. Existing site access made redundant to be closed and the crossing reinstated to footway**
- 5. Internal and external noise level controls for dwellings**
- 6. Noise assessment of nearby commercial units and implementation of any mitigation measures arising from such an assessment**
- 7. Control of noise impacts arising from noise generating plant within the development**
- 8. Pest Management Plan**
- 9. Air Quality Assessment prior to first use of any combustion appliance**
- 10. Air quality standards to be achieved from combustion plant within or serving the development**
- 11. Contaminated land conditions**
- 12. Prior approval of surface water drainage system**

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

Reason for recommendation

It is considered that the redevelopment of this site for residential purposes is acceptable and would form a sustainable form of development.

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

Pre-application discussions took place with the applicant as well as discussions during the course of the application, taking into account the guidance found within the NPPF on the approach to be adopted.

KEY ISSUES

The application seeks outline consent for 38 residential units on site, with all matters reserved. It is within the major urban area and adjoins, but does not encroach into, the Green Belt.

The key issues in the assessment of the application are as follows;

- Principle of development
- Visual Impact
- Residential amenity (air quality, odour, noise, pests)
- Impact of the development on the adjoining landfill site
- Highway safety
- Planning Obligations

Principle of Residential Development on Site

The site lies in the rural area within the Silverdale Parish area on the edge of the town centre.

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

Paragraph 117 of the National Planning Policy Framework 2018 states that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 11 of the Framework states that Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 12 also highlights that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

Whilst a report on the latest five year housing land supply position is to be considered by the Council's Planning Committee on 27th September, the position at the time of writing is that the Borough Council has yet to determine that it is able to demonstrate a supply of deliverable housing sites sufficient to provide a minimum of 5 years' worth of housing against its local housing need. As such whilst policies on the location of housing within the Development Plan are supportive of the proposal, they are out of date and have limited weight. However even if the Council were to determine that it does have such a

supply, and policies on the supply of housing are not out of date, such policies are supportive of the principle of the development given the location.

The application site is a former garage and testing centre, and as such can be considered as previously developed land (PDL).

The principle of residential development on this site by virtue of it representing development of PDL in a sustainable location is considered to comply with policies SP1 and ASP5 of the CSS, policy H1 of the local plan. The starting point is a strong presumption in favour of development unless any adverse impacts of doing so would outweigh the presumption

Visual Impact

The site is prominent in views when approaching the site from Cemetery Road in both directions. The application site currently holds a commercial business use and was formally used as a garage and car sales business. The current site contains a number of vehicles, and a significant amount of white goods that are stored in the open, and therefore the current visual impact of the site can be considered to be adverse in this prominent location on the edge of town. The redevelopment of the site would therefore be visually beneficial to the area.

The design and layout of the development will need to be considered carefully at reserved matters stage but there is no basis upon which to conclude that the site could not accommodate residential development which would be acceptable in visual terms.

Residential Amenity

The application is supported by a number of Assessments relating to residential amenity particularly arising from the site's proximity to the adjacent landfill site and potential land contamination issues on site.

It is known that the landfill site has planning permission until 2042 and that the levels of the fill, as permitted, will exceed the existing land level prior to the final restoration of the site thereby giving rise to amenity issues for a considerable period of time. It is therefore necessary to consider the impact of the landfill site on residential amenity as it is at present and as it will change as ground levels within the site increase as waste is deposited.

The Air Quality Assessment submitted has concluded that there will be no air quality concerns arising as a consequence of the development. It states the proposed use is likely to improve air quality. Mitigation measures are proposed for the construction phase of the development for dust control only.

The Environment Agency (EA) was consulted as part of the application and state that they carried out a study of Ambient Air Quality nearby at Silverdale Road between 6 July 2017 and 14 February 2018. The data from this report concluded that at Silverdale Road odorous gases were detected which may cause amenity issues for residents. These gases were not considered in the air quality assessment carried out for the site in support of the planning application. It is important to note that the study concluded these gases were not considered to be solely originating at the landfill site. There are other sources of these gases in the area, notably to the north west of the landfill site, though the source is currently unknown. Given that the monitoring concluded that the wind in the area blew from 230 - 320° (SW-NW) with for 50% of the time, it is probable that the new housing could also be affected by these odours. It is noted that the landfill operators do seek to address odour concerns from the site.

Whilst there may be an impact with regard to odour, it is of merit to note the appeal decision at the nearby Hamptons Scrap Yard (14/00948/OUT), which concluded that the impact of odour emissions on future occupiers was acceptable, and the appeal was allowed. It was noted that the Landfill's Environmental Permit should seeks to address issues with odour caused by the landfill. In light of the appeal decision a refusal due to any adverse impact on the amenity of the occupiers of the properties arising from odours could not be sustained and as such is not recommended.

The Noise Assessment submitted with the application concludes that the impact of road traffic noise and industrial estate noise would be acceptable, however no details of noise from vehicle

movements and daytime operation of plant at the landfill are included. Whilst this is currently not an issue, as the landfill is filled the existing ground level will increase significantly which will increase the impact.

Recommendations have been made regarding glazing and ventilation systems but there has been no consideration of how the premises will be cooled without opening the windows. This issue would need to be addressed at the reserved matters stage, as would the noise from external garden areas.

In a night time assessment noise impacts arising from plant at the landfill has identified a noise rating level that would be a significant adverse impact. As it stands, this could be addressed via careful design and mitigation measures that can be addressed at the reserved matters stage of the application.

This approach is broadly mirrored by the advice from the EA who suggest window opening may not be possible on site.

Due to the proximity of the proposed development to the Walley's Quarry Landfill site and an allotment site there is the potential to be an issue from pests. In order to control pests issues, it is considered necessary to require assessment of the potential impacts of pests and for design measures to be incorporated into the development to deter gulls (such as elimination of potential perching or nesting sites or secure waste storage facilities), or mitigate the potential impacts, where appropriate.

A Phase 1 Contaminated Land Survey was submitted with the application which highlights potential contamination uses on site, and beyond at the Walley's Quarry Landfill site. Further investigation would need to be carried out prior to any Reserved Matters application being granted on the site to ensure mitigation measures are in place prior to any construction on site.

Impact of the development on the adjoining landfill waste site

Policy 2.5 of the adopted Waste Local Plan states that the Waste Planning Authority will not support proposals that would unduly restrict or constrain the activities permitted or allocated to be carried out at any waste management facility, or restrict the future expansion and environmental improvement of existing operational waste management facilities.

Section 2, 8(c) of the newly revised NPPF sustainable development is achieved by minimising waste and pollution. Section 15 (e) states that to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new and existing development is appropriate for its location.

The proximity of the proposed development, for the reasons outlined above, raises issues of residential amenity; however the impact of odour is considered to be controllable by the EA Permitting System. As such, the proposal would not prejudice the implementation of the Waste Strategy contrary to local and national policy.

Highway safety

The development is likely to be accessed from Cemetery Road, however all details of access remain reserved. The submitted Transport Assessment concludes that the site is supported by public transport and active transportation modes, and as such the site is supported by sustainable transport methods.

The details with regard to access, parking etc, will be addressed within any subsequent reserved matters application.

Planning obligation considerations

The development of 38 units would trigger the requirement for provision of 25% affordable housing, which should be provided at the Reserved Matters stage.

The Education Authority are confident that the existing affected schools have capacity for any increase in students, and as such do not request a financial contribution for places.

A financial contribution of £212 002 towards public open space (POS) has also been requested and is required to make the development acceptable. This would make the development policy compliant and 'sustainable'. It is considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

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

The Council's Landscape Development Section has requested a contribution towards POS for improvements to playground facilities at the Park Road Play Area which is 750m away from the site. On this basis, it is considered that the contribution sought would comply with CIL Regulation 123.

Conclusion

The proposal is considered to be a sustainable form of development that would provide 38 additional residential units to Housing Land Supply, would reuse a previously developed site and whilst there could be some disturbance to future residents in the form of odours from the landfill, it is considered that the level of impact would be acceptable, subject to suitable mitigation measures, such as mechanical ventilation and heating and cooling systems within the units.

It is considered that the benefits arising from granting planning permission; provision of housing land; the benefits to the local economy; and the social benefits of providing family and affordable houses, would outweigh any negative impacts, and as such the presumption is in favour of the proposed development.

APPENDIX

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

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

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

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

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N12: Development and the Protection of Trees

Other material considerations include:

[National Planning Policy Framework \(NPPF\) \(2018\)](#)

[Planning Practice Guidance \(PPG\) \(2018\)](#)

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

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

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

[Staffordshire and Stoke-on-Trent Joint Waste Local Plan 2010 – 2026](#) (adopted by SCC and SotCC on 22 March 2013)

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

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

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

Relevant Planning History

13/00559/FUL

Change of use of car sales and repair centre to warehousing and storage. Increase the existing residential accommodation from one to two apartments.

Approved 2013

The site was granted permission for car sales and workshops in the 1970s. Several applications relating to minor changes in relation to this use have been approved between from the 1970s until the mid 1990s.

Views of Consultees

Silverdale Parish Council offered the following comments;

- Should not encroach onto the Green Belt
- Hedgerow to the rear of the site should be protected

- A mix of housing should be offered
- Is there access to local services
- Ensure land is not contaminated.
- Requests traffic calming measures at the nearby waste site
- S106 contributions should be provided for local play facilities.

The **Environment Agency** raises no objections subject to contaminated land conditions.

The **Highway Authority** has no objections to the proposal, subject to conditions relating to the prior approval of a construction management plan; closing of redundant access; provision of weatherproof cycle storage for any dwelling with no garage: garages retained for parking of motor vehicles and bicycles; and provision of adequately sized garages.

The **Environmental Health Division** raises no objections subject to conditions including, noise and vibration, light and air pest management. The submission has not submitted sufficient detail in terms of land contamination; however this can be addressed via condition.

The County **Mineral and Waste Planning Authority** state the site is opposite the Walley's Quarry Landfill which includes an inert waste landfill and land gas processing. The landfill currently has permission until 2026, with restoration works being completed by 2042. No objections are raised.

The **Lead Local Flood Authority** state there are no objections to the proposal subject to a securing a detailed surface water drainage design.

The Council's **Waste Services** comment that further information would be required, including waste information and a sweep path analysis.

The **County Education Authority** notes that the site falls within the catchment area of Silverdale Primary School and the Newcastle Academy. The proposal is likely to generate need for 4 Primary and 3 Secondary places which can be accommodated at present. As such, no request is made for a financial contribution.

The Council's **Housing Section** accepts that the proposal would provide sufficient affordable housing and socially rented to be policy compliant.

The **Landscape Development Section** has no objections subject to permission in accordance with a tree protection to BS5837:2012 for retained trees. They also request a financial contribution of open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution £5,579 per dwelling. This will be used for improvements to Park Road play area which is approximately 700m away.

The **Staffordshire Police Crime Prevention Officer** states the redevelopment of the site for housing would be welcomed.

Western Power was consulted with regards to the powerlines on site. No official response has been provided, and as such it is assumed that they have no comments to make.

The **Coal Authority** was consulted and offered no comments. It is assumed that they have no comments to make.

Representations

None received during the course of the application.

Applicant/agent's submission

The application is supported by a Planning Application, Plans and Design and Access Statement, Air Quality Assessment, Transport Statement, Flood Risk Assessment and a Contaminated Land Report.

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/18/00293/OUT>

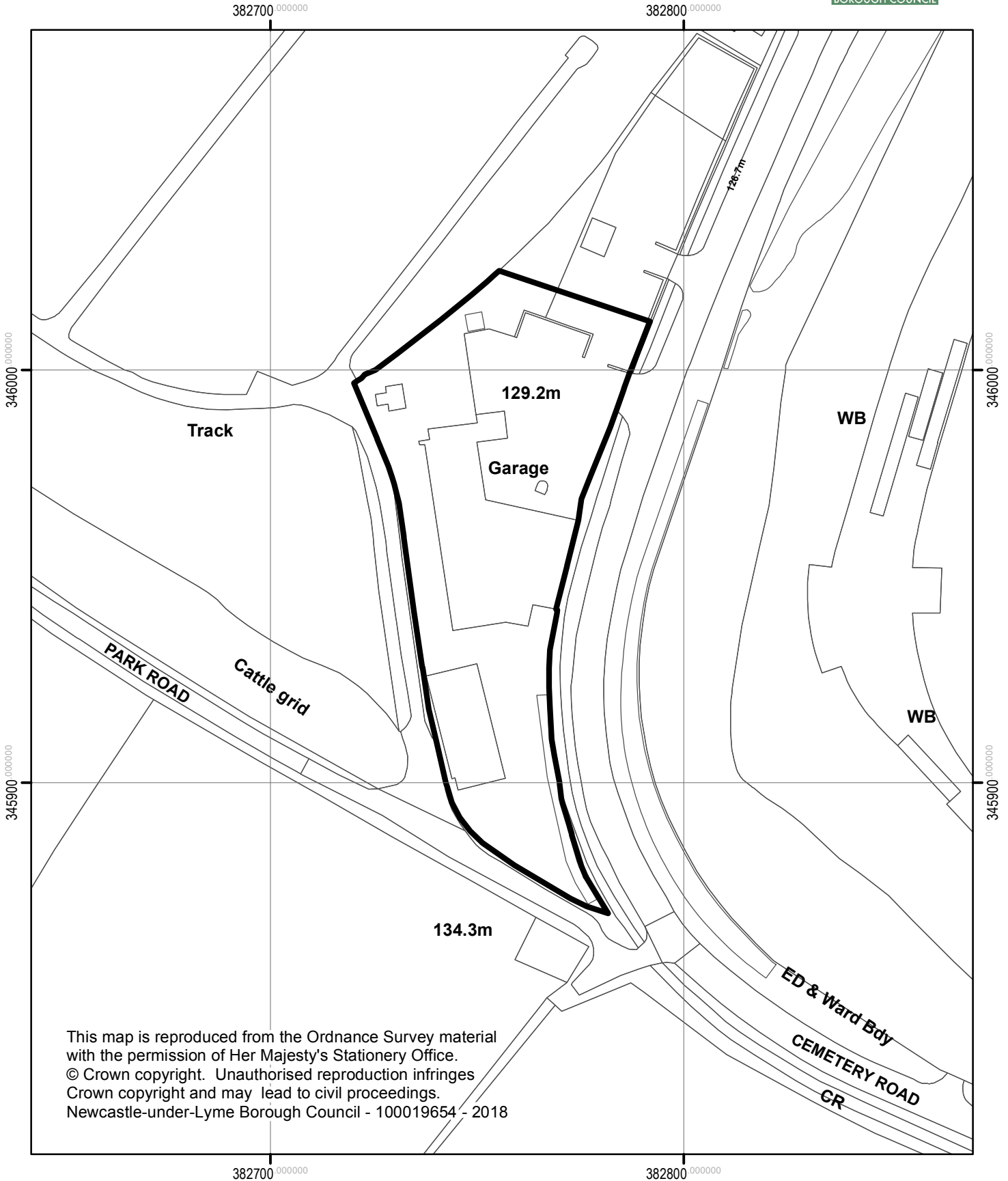
Background Papers

Planning File
Development Plan

Date report prepared

25th September 2018

Former Garage
Cemetery Road
Silverdale



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2 – 4 MARSH PARADE, NEWCASTLE UNDER LYME **MARSH BOX DEVELOPMENTS**

17/00722/FUL

Full planning permission was granted for the proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking in June 2017 (Ref. 17/00179/FUL). Prior to the grant of the full planning permission a Section 106 agreement was entered into which secured a review mechanism of the scheme's ability to make a policy compliant contributions to public open space and on-site affordable housing, if the development was not substantially commenced within 12 months from the date of the decision.

A subsequent Section 73 planning application (reference 17/00722/FUL) for the variation of condition 2 of 17/00179/FUL to substitute approved plans with revised plans was then approved in December 2017. A deed of variation to the original Section 106 agreement was completed which referred to the new planning permission and secured the review mechanism should the development not substantially commence within 12 months from the date of the original decision (23 June 2017).

The development has not substantially commenced by the 23 June 2017 and the developer now wishes to seek a further deed of variation to the original Section 106 agreement to allow a further 12 months for substantial commencement of the development to take place. This is an informal request, and there is no appeal can be made by the developer if the Council does not agree to this request.

RECOMMENDATION

That the Committee agree that:-

- 1. The developer be advised that the Council as the Local Planning Authority is willing to agree to the completion of a Deed of Variation to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space and the provision of policy-compliant on-site affordable housing, if the development is not substantially commenced within 12 months, and the payment of such a contribution and the provision of such affordable housing, on proportional basis, if found financially viable,**
- 2. The date by which the Deed of Variation must be completed by is the 9th November 2018, or another date agreed by the Head of Planning, if he considers it appropriate.**

Reason for Recommendation

Following the receipt of up to date independent advice on the financial viability of the scheme it is concluded that the proposed development is still unable to support policy compliant Section 106 obligations. The scheme is still considered to represent a highly sustainable form of development that would contribute to the delivery of housing supply in the Borough. The site has been vacant for a number of years which does little to enhance the appearance of the area and its redevelopment will be beneficial to the area. A further deed of variation to allow an additional 12 months before a review mechanism is therefore considered necessary and appropriate.

Key Issues

The authority to authorise the entering into of a Deed of Variation rests with the Planning Committee. The current Section 106 agreement requires a reappraisal to be undertaken upon substantial commencement where such substantial commencement is not achieved by the 23rd June 2018 but the developer has instead asked the authority to agree to a further 12 month period within which substantial commencement can commence with no contributions. This is considered a reasonable request as it provides some certainty for the developer which would not otherwise exist.

The Authority has again sought independent advice from the District Valuer (DVS) who still conclude, as they did in 3 January 2017 (the date of the original financial viability report), that the approved

development is still not viable with a policy compliant financial contribution towards public open space and on site affordable housing provision, if any level of contribution or affordable housing is required.

The new NPPF marks a significant change in the approach to be adopted to viability. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. However in the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised. A further factor to take into account here is that this is not a “new application”. The scheme is still considered to represent a highly sustainable form of development that would contribute to the delivery of housing supply in the Borough. The site has been vacant for a number of years which does little to enhance the appearance of the area and its redevelopment will be beneficial to the area.

On this basis, and given the advice of the District Valuer, it is recommended that a Deed of Variation be secured to allow a further 12 months for the development to substantially commence. If it does not, then a yet further appraisal will be required when it does.

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 CSP6: Affordable Housing
Policy CSP10: Planning Obligations

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

Policy C4 Open Space in New Housing Areas

Other Material Considerations

[National Planning Policy Framework](#) (July 2018)

[Planning Practice Guidance](#) (March 2014, as updated)

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

[Supplementary Planning Documents/Guidance](#)

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

[Affordable Housing SPD](#) (2009)

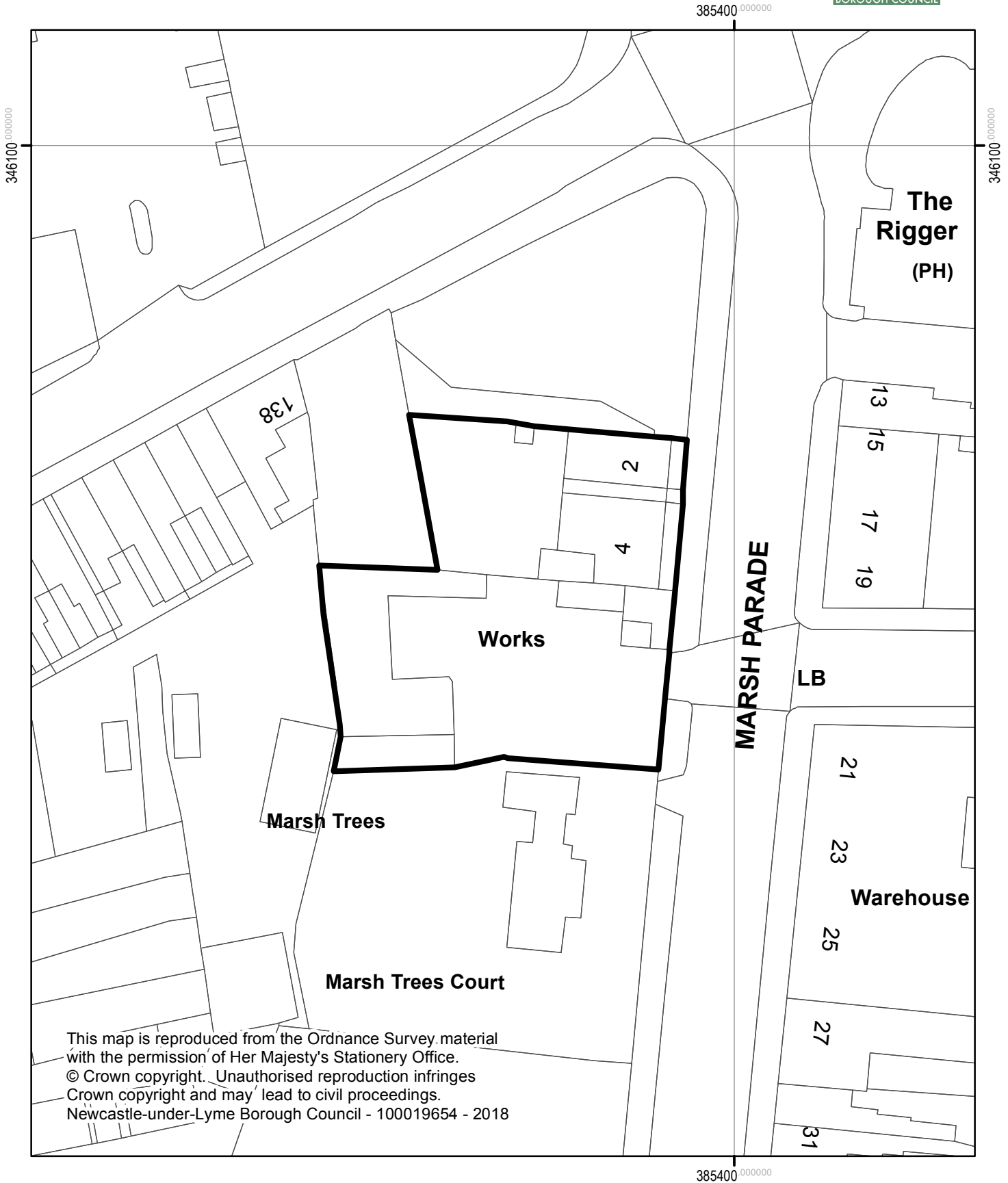
[Newcastle-under-Lyme Open Space Strategy](#) – adopted March 2017

Views of Consultees

None undertaken

Date report prepared

27 September 2018



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NEW FARM, ALSAGER ROAD, AUDLEY
MR. EMERY

18/00122/FUL

The application is for full planning permission for the erection of seven dwellings on the site of a builders yard

The site is located within the Green Belt and is also within an Area of Landscape Enhancement as defined by the Local Development Framework Proposals Map.

This application was reported to Committee on 14th August when it was deferred for further information to be provided to substantiate the claim that site is previously developed land.

The 8 week period for the determination of this application expired on the 24th April and whilst the applicant had agreed an extension of time to the statutory determination period to the 21st September 2018 this has also now expired.

RECOMMENDATIONS

A. Subject to the applicant first entering into a Section 106 agreement by 18th September 2018 to secure a review mechanism of the scheme's ability to secure policy compliant on-site affordable housing and a contribution towards off site public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution and the provision of such affordable housing if found financially viable, PERMIT the application subject to conditions relating to the following matters:-

- 1. Standard Time limit for commencement of development**
- 2. Approved Plans**
- 3. Facing and Roofing Materials**
- 4. Boundary Treatments**
- 5. Finished Ground and Floor Levels**
- 6. Access, Internal Road and Parking to be provided prior to occupation**
- 7. Visibility Splays**
- 8. Surfacing and Drainage (roads, access and parking)**
- 9. Footway Provision on Alsager Road (to the site)**
- 10. Garages Retained for Parking and Cycles**
- 11. Approval of Tree and Hedgerow Protection Proposals**
- 12. Arboricultural Method Statement to BS5837:2012**
- 13. Landscaping**
- 14. Construction Environmental and Highways Management Plan**
- 15. Land Contamination**
- 16. Foul and surface water drainage details**

B. Should the matters referred to above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of policy compliant financial contribution towards public open space and onsite affordable housing.

Reason for Recommendation

The development comprises appropriate development within the Green Belt and whilst the site is located within the open countryside beyond the village envelope of Audley it does offer opportunities for walking and cycling, as opposed to the use of private motor vehicles, to access day to day services and facilities in Audley. The proposal would provide a number of benefits including; a contribution to the Council's housing supply and the replacement of unsightly buildings and associated external storage areas, with a scheme that would enhance

the character and quality of the landscape. The benefits would significantly and demonstrably outweigh the limited suburbanising and sustainability concerns that have been identified. It is also accepted, following the obtaining of independent financial advice, that the scheme is not viable with any affordable housing and financial contribution towards public open space, and whilst these policy compliant requirements are not sought, given the benefits of the scheme, a Section 106 agreement should be secured for a review mechanism.

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 Authority has requested additional information during the consideration of the planning application to address specific concerns, and has arranged for an appraisal of the viability of the scheme.

Key Issues

Full planning permission is sought for the erection of seven dwellings on the site of a builders yard which is located within the Green Belt and is also within an Area of Landscape Enhancement as defined by the Local Development Framework Proposals Map.

The application indicates that the site comprises previously developed land (used as a builders yard for the past 17 years). The application was deferred by members at its meeting of the 14th August so that further information could be submitted to substantiate the claim that the site is previously developed land. Further information has now been received. It is not considered that the application raises any issues of impact on residential amenity, coal mining risk or impact on trees and hedgerows subject to conditions. Therefore, the key issues in the determination of this application are considered to be:

- Is the development appropriate within the Green Belt? If it is not appropriate development in the Green Belt, do the required very special circumstances exist that would outweigh the harm caused by inappropriate development or any other harm?
- Is the principle of residential development acceptable in this location?
- Is the proposal acceptable in terms of its impact on the form and character of the area?
- Would there be an unacceptable impact on highway safety?
- What affordable housing and contributions, if any, are required?
- 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?

Is the development an appropriate form of development within the Green Belt?

Paragraph 145 of the revised NPPF states that other than in the case of a number of specified exceptions the construction of new buildings should be regarded as inappropriate in the Green Belt. One of these exceptions is the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.

The application submission indicates that the site comprises previously developed land (used as a builder's yard for the past 17 years). The applicant has submitted further information to substantiate this claim.

The further information includes evidence of the transfer of the land from The Coal Authority to Mr. Emery in 1997 and a portfolio of information for the transfer of the land which refers to former pig buildings. Three signed letters, including one from a neighbouring property, have been submitted which state that the land has been used as a builders yard for over 15 years.

Your officer has sought legal advice on the information received and whilst planning permission was never given for such a use it is accepted that on the basis of that information and in the absence of any evidence to the contrary it is concluded that, on the balance of

probabilities, the builders yard has been operating for a continuous period of more than 10 years. The lawful use of the site is as a builder's yard and would meet the definition of previously developed land, as set out in annex 2 of the NPPF.

The applicant's agent has provided volume calculations of the existing buildings on the site and these are calculated as having a volume of 7844 cubic metres with the proposed seven dwellings and their garages having a total volume of 7056 cubic metres.

The agents indicate that this amounts to a reduction of 788 cubic metres, which would be a 10% decrease in overall built volume. The footprint of the proposed buildings is less than that of the existing buildings.

On the basis of the above it is considered therefore that the proposed development of this previously developed site would not have a greater impact on the openness of the Green Belt (as opposed to its appearance) than the builders yard and its associated buildings and external storage area. The proposal therefore constitutes appropriate development within the Green Belt and there is no requirement for the applicant to make a case based on there being "very special circumstances".

Is the principle of residential development acceptable in this location?

The application site lies within the Rural Area of the Borough in the open countryside. Policies for the control of development in the open countryside apply with equal force within the Green Belt

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

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

Furthermore, Policy H1 of the Local Plan seeks to support housing within the urban area of Newcastle or Kidsgrove or one of the village envelopes.

The site is not within a village envelope and the proposed dwellings would not serve an identified local need, as will be explained later, and as such are contrary to policies of the Development Plan.

The revised NPPF published on the 24th July brings with it a new approach to the assessment of whether an area has a five year housing land supply.

Whilst your officers are seeking to bring a report on the five year housing land supply position to the Committee the position at the time of writing is that the Borough Council has yet to determine that it is able to demonstrate a supply of deliverable housing sites sufficient to provide a minimum of 5 years' worth of housing against its local housing need (the appropriate test given its adopted strategic policies are more than 5 years old, the Council having accepted that the Core Spatial Strategy (CSS) requires updating).

Until the position changes the LPA has no alternative but to treat its policies on the supply of housing (which include both policies ASP6 and H1) as "out of date" and this means the presumption in favour of sustainable development applies and permission should be granted unless

- i) The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- ii) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits

Although the site does lie within one of the areas referred to in i) above (the Green Belt) given the conclusion reached above, that the development constitutes appropriate development policies on inappropriate development (in the Green Belt) do not provide a clear reason for refusing the development

The NPPF indicates with respect to housing in rural areas that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural communities. An example given of this is where there are groups of smaller settlements, development in one village may support services in a village nearby. However it goes on to indicate further that local planning authorities should avoid the development of new isolated homes in the countryside unless there are 'special circumstances'. None of the circumstances listed in paragraph 79 are considered to apply to this case

The site lies approximately 600 metres from the edge of the village envelope of Audley and 1.4km from the shops and services. There is a footway on Alsager Road but future occupiers of the proposed dwellings would need to cross over at least twice because the footway is not continuous on each side of the road. The application proposes an extension to the footway on the eastern side of Alsager Road which will extend to the entrance of the development site on Cross Lane.

Manual for Streets Guidance advises that walkable neighbourhoods are typically characterised as having facilities within 10 minutes (up to 800m) walking distance of residential areas which residents may access comfortably on foot. It goes on to say however that this is not an upper limit and that walking offers the greatest potential to replace short car trips, particularly those under 2km. Guidance within the Chartered Institution of Highways and Transportation (CIHT) document, "Guidelines for Journeys on Foot" states that the preferred maximum walking distance for commuters and education is 2km.

Notwithstanding the need to cross over the road at least twice (before occupiers get to the village envelope) to access services within the village there is a possibility that an occupier of the proposed dwellings would find walking and cycling, at least to facilities and bus services within Audley, a realistic alternative to the use of a private motor vehicle. In terms of access to facilities and a choice of mode of transport, it is considered that the site does offer an alternative to the use of a private motor vehicle via walking and cycling but it is acknowledged that this is likely to be infrequent given the distance involved.

Paragraph 8 of the revised NPPF states that there are three overarching objectives to sustainable development: economic, social and environmental. The applicant's agent states that in terms of the economic dimension, the proposal would result in the loss of a builders yard, although it would not result in the loss of the existing business which primarily operates off site. They state that other economic benefits would be through the construction of seven new houses by local builders and through expenditure by the additional households. The New Homes Bonus would be a further economic benefit.

The applicant sets out a range of environmental benefits, which include the removal of unsightly buildings with that they say is designed to enhance the landscape. Furthermore the proposal would not give rise to significant harm to biodiversity interests, and measures can be incorporated into the proposal to enhance biodiversity.

In terms of the social dimension, it is argued that the proposal would contribute to the supply of housing in the Borough and would deliver open market housing that would meet existing needs, as well as the needs of future generations.

In consideration of the above your Officer would point out that with respect to the New Homes Bonus that may be associated with the development as members will be aware officers have previously advised that no weight should be given to this particular "local finance consideration" given what it is spent on in the Borough.

Further consideration will be given in the final section to the harm and benefits associated with this development.

Is the proposal acceptable in terms of its impact on the form and character of the area?

The National Planning Policy Framework places great importance on the requirement for good design, which is a key aspect of sustainable development. Policy CSP 1 of the Core Spatial Strategy 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.

The Urban Design Supplementary Planning Document, at R12, indicates that residential development should be designed to contribute towards improving the character and quality of the area. Where in or on the edge of existing settlements developments should respond to the established character where this exists already and has definite value. Where there is no established character the development should demonstrate that it is creating a new character that is appropriate to the area. At RE7 it indicates that new development in the rural areas should respond to the typical forms of buildings in the village or locality; RE6 states that elevations of new buildings must be well composed, well-proportioned and well detailed: and RE7 says new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) in 10.1 indicates that the aims for development within, or to extend, existing rural settlements are

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

It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality. The elevations of new buildings must be well composed, well-proportioned and well detailed and new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The site is within an Area of Landscape Enhancement. Policy N20 of the Local Plan states that within such areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The site is surrounded predominantly by agricultural land, with fields bounded by hedgerows and hedgerow trees.

The existing buildings and the use of the site, as a builders yard, do have an adverse impact on the character and appearance of the landscape, even though the buildings are of a single storey nature. The proposed scheme would result in the removal of the unsightly buildings and the associated significant areas of external storage of building materials. Photographs taken recently of the site will be available for members to view at the Committee meeting. The site is likely to be more prominent and intrusive in the landscape in the winter months when adjacent trees and hedgerows are not in leaf.

It is accepted that the layout, form and appearance of the proposed dwellings are sympathetically designed and the use of appropriate facing materials would further aid their appearance. The scheme provides opportunities that would not otherwise exist for appropriate landscaping within the site to reinforce existing vegetation.

It is accepted that the proposed development, by re-using previously developed land would not further erode the character and quality of the landscape and the submitted landscaping proposals would offer an enhancement to the site. As such the proposal would comply with

Policy N20.

Impact on highway safety

The existing site has an existing access point onto Cross Lane and the proposal is to improve this access. The site access can accommodate two-way vehicle movements, and each dwelling would be provided with off street car parking space. A turning head would also be provided.

The NPPF advises that development should only be prevented or refused on highway grounds if there is an unacceptable impact on highway safety.

In this case the Highways Authority has raised no objections subject to a number of conditions which will ensure that appropriate visibility, parking and turning areas are provided, along with acceptable surfacing/ water run-off provision and a construction method statement are achieved

The site currently operates as a builders yard, which will generate some movements, and whilst there will probably be an increase in vehicle movements to and from the site that would not result in an unacceptable impact on highway safety.

What affordable housing and contributions, if any, are required?

The Landscape Development Section (LDS) have indicated that the proposed development would require a contribution of £5.579 per dwelling to be secured for Public Open Space (POS) improvement and maintenance. The sum, it is proposed would be spent on improvements to play equipment at Alsager Road which is approximately a 790m walk from the site. Although this is some distance it is within the recognised acceptable walking distances referred to above. For the avoidance of doubt it is confirmed that the requirements of Sections 122 and 123 of the CIL Regulations in respect of this contribution are considered to be met.

The proposals generate in excess of 1000 square metres of floor space and there is a local policy requirement for 25% affordable housing to be provided on-site which would amount to 2 of the units.

The applicant has stated within their submission that the scheme cannot support the requested policy compliant contributions towards affordable housing and POS and the District Valuer's (DV) advice has been obtained by the Authority. This concludes that the scheme is not viable with policy compliant financial contributions, and when asked to confirm what, if any, financial contributions the scheme could support, the DV has confirmed that the scheme would be unviable if any level of contribution or affordable housing was secured.

The application will still need to be the subject of a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months of the date of any decision on the application, and then payment of an appropriate contribution/ provision of on-site affordable housing, if the site were to found capable of financially supporting these features. It is suggested that in such an event any such residual land value if it equates to the value of less than either one, or two affordable housing units on sites should be allocated in equal proportions to offsite affordable housing and public open space improvements.

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?

Your Officer recognises that this is not a location that would generally be recognised as "isolated" although it is physically separated from the village of Audley. The introduction of 7 two storey dwellings replacing single storey sheds of an agricultural appearance will have some adverse urbanising impact on the character of this part of the countryside – that being an element of harm. Whilst residents would at least have a choice of modes of travel in this

location that would only be via a 1.4 km walk and there is also still likely to be a fairly high level of use by the private motor car by the residents to access employment and most services so on the sustainability spectrum the site does not score particularly well. This is a further element of harm.

As indicated above there are significant benefits of the scheme, in particular the fact that unsightly buildings and external storage areas would be removed which would not otherwise occur. The development would also make a contribution towards addressing the currently accepted shortfall in housing supply within the Borough. Although this contribution is limited in scale it is appropriate to consider such contributions cumulatively. Finally it would bring about limited economic benefits associated with its construction and occupation. It would not however make any contribution to the supply of affordable housing.

Taking the above into account it is considered that the adverse impacts that have been identified above do not significantly and demonstrably outweigh the benefits of the development, and on this basis a recommendation of approval is given.

APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP3: Spatial Principles of Movement and Access
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

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

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N17: Landscape Character – General Considerations
Policy N20: Area of Landscape Enhancement
Policy C4: Open Space in New Housing Areas
Policy IM1: Provision of Essential supporting Infrastructure

Other Material Considerations

[National Planning Policy Framework](#) (July 2018)
[Planning Practice Guidance](#) (PPG) (March 2014)

[Draft revised National Planning Policy Framework](#)

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

[Supplementary Planning Documents/Guidance](#)

[Space Around Dwellings SPG](#) (SAD) (July 2004)
[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)
[Developer contributions SPD](#) (September 2007)
[Affordable Housing SPD](#) (2009)
[Newcastle-under-Lyme Open Space Strategy](#) (March 2017)
[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

[Planning History](#)

None considered relevant to the determination of this planning application.

[Views of Consultees](#)

The **Environmental Health Division** has no objections subject to conditions which secure the submission and approval of an environmental management plan and contaminated land information.

The **Highway Authority** has no objections following the submission of further information. They recommend conditions which secure the access. Internal road and parking areas, the

visibility splays being provided, the submission and approval of surfacing materials and surface water drainage, provision of a footway linking from the site access to the existing footway on Alsager Road, garages to be retained for parking of vehicles and cycles and the submission and approval of a construction method statement.

The **Landscape Development Section** has no objections subject to the following being secure via conditions;

- Approval of Tree and Hedgerow Protection Proposals
- Arboricultural Method Statement to BS5837:2012 to cover all works within the RPAs of retained trees.
- Prior approval of landscaping proposals (to include replacement tree planting and hedgerow planting).

A contribution by the developer is also requested 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. Total contribution £5,579 per dwelling. This will be used to upgrade local play equipment at Alsager Road which is 790m walk or at another suitable local Parish Council facility.

Audley Rural Parish Council (ARPC) resolved not to support this application due to the harm on the character of the Green Belt, the lack of special circumstances to develop the Green Belt, the fact that this was never used as a builders yard (with permission, due to no enforcement action taken) and was for agricultural purposes, highways safety issues regarding access onto Alsager Road, the unsustainability of the development which is not near any amenities, services or near to public transport links. It was also noted that a similar development on Nantwich Road had also been refused and that this should follow the same precedent.

ARPC were also given an opportunity to comment on the further information received and they maintain their objections, as set out above.

The **Waste Management Section** indicates that no swept path information has been supplied with relation to our collections fleet of 26 tonne freighters and Romaquip recycling vehicles. Each property will need to be able to store a 180ltr refuse bin, a 240ltr garden waste bin, 3 x 55ltr recycling boxes and a 21ltr food caddy.

The **Coal Authority** indicates that in accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the applicant in the interests of public health and safety.

Representations

One letter of representation has been received indicating that whilst they do not object to the application they raise concerns about the additional traffic and the effect on neighbouring properties. Further observations about flooding of Cross Lane and noise of the existing use have also been made.

Applicant/agent's submission

The planning application is supported by the requisite application forms and indicative plans, along with the following supporting documents;

- Design and Access Statement
- Planning Statement
- Development Appraisal
- Landscape and tree report
- Ecological Assessments and phase 1 habitat survey

- Phase 1 Environmental Assessment

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00122/FUL>

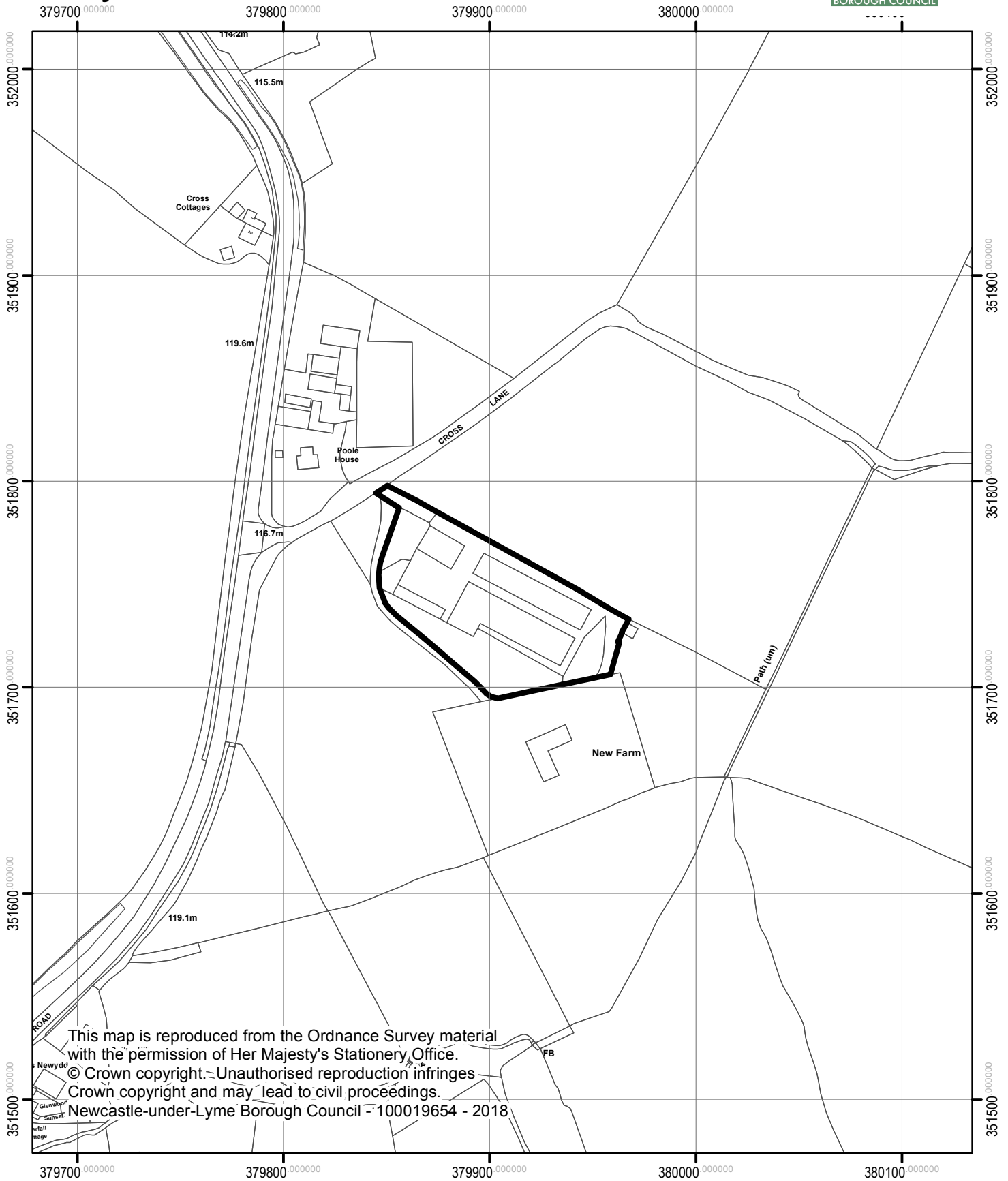
Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

27th September 2018

New Farm Alsager Road Audley



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FORMER HALMEREND WORKINGMENS CLUB, COOPERATIVE LANE
MR TONY KELLY

18/00329/FUL

The application is for full planning permission for a residential development of 7 dwellings.

The application site, of approximately 0.3 hectares, is within the village envelope of Halmer End, as indicated on the Local Development Framework Proposals Map.

The site is accessed off Minnie Close which is an Unclassified Road.

Public footpaths (Audley 40 and Audley 87) run beyond the north, east and southern boundaries of the site.

The 8 week period for the determination of this application expired on the 22nd June 2018.

RECOMMENDATION

A. Subject to the applicant first entering into a Section 106 agreement by 20th November 2018 to secure a contribution towards Public Open Space of £39,053, or a reduced amount/no contribution dependent upon the conclusion reached on the issue of viability in which case the agreement would secure a review mechanism of the scheme's ability to make a policy compliant contributions to public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution if found financially viable, PERMIT the application subject to conditions relating to the following matters:-

- 1. Standard Time limit for commencement of development**
- 2. Approved Plans**
- 3. Facing and Roofing Materials**
- 4. Boundary Treatments, including retaining walls**
- 5. Finished Ground and Floor Levels**
- 6. Removal of permitted development rights**
- 7. Visibility splays prior to occupation (and kept free from obstruction)**
- 8. Road, parking and turning areas prior to occupation**
- 9. Surfacing, surface water drainage and delineation of car parking spaces;**
- 10. Existing site access made redundant to be closed and the crossing reinstated to footway;**
- 11. Garages retained for parking;**
- 12. Construction management plan**
- 13. Tree protection plan**
- 14. Arboricultural Method Statement**
- 15. Detailed Landscaping Scheme, including tree retention, replacement tree planting, and tree and hedge planting at the rear of plots 3 and 4.**
- 16. Land Contamination**
- 17. Construction Hours**
- 18. Design measures to minimise noise on future occupiers**
- 19. Foul and surface water drainage details**
- 20. Ecology mitigation measures**

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning either refuse the application on the grounds that without the obligation being secured, the development would fail to secure an appropriate contribution for off-site public open space which would reflect the infrastructure needs of the development and (should there be a viability case for non-policy compliant contributions) there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The principle of residential development on this site, which represents previously developed land within a sustainable rural area, is considered acceptable and the scheme would enhance the appearance of the site which has been left in an untidy state for a number of years. The impact of the development on neighbouring occupiers can be suitably mitigated to an acceptable extent through conditions and highway safety can also be addressed by condition. The scheme would also make a contribution towards public open space unless it is proven that the scheme is not financially viable with a contribution – a further update will be given taking into account the submitted information.

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

Officers of the Authority have requested further information from the applicant during the consideration of the planning application following concerns and this has been received.

KEY ISSUES

This application is for full planning permission for a residential development comprising 7 dwellings on the site of the former Halmer End workingmen's club which is on the edge, but located within, the village envelope of Halmer End with land beyond the northern and eastern boundaries being designated as Green Belt.

Access to the proposed development would be Co-Operative Lane which leads to Minnie Close, a cul-de-sac of residential dwellings.

It is considered that the main issues for consideration in the determination of this application are:

- Is the principle of the development on this site acceptable?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would there be any adverse impact on residential amenity?
- Would the proposed development have any adverse impact upon highway safety?
- S106 obligation considerations
- 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?

Is the principle of the development on this site acceptable?

The site lies in the rural area within the village envelope of Halmer End, which is a village within the Audley Parish.

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

Policy ASP6 is more specific towards housing in rural areas and states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing. This is to allow only enough growth to support the provision of essential services in the Rural Service Centres.

Furthermore, policy H1 of the Local Plan seeks to support housing within the urban area of Newcastle or Kids Grove or one of the village envelopes.

Paragraph 117 of the National Planning Policy Framework 2018 states that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 11 of the Framework states that Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of

housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 12 also highlights that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

Whilst a report on the latest five year housing land supply position is to be considered by the Council's Planning Committee on 27th September, the position at the time of writing is that the Borough Council has yet to determine that it is able to demonstrate a supply of deliverable housing sites sufficient to provide a minimum of 5 years' worth of housing against its local housing need. As such whilst policies on the location of housing within the Development Plan are supportive of the proposal, they are out of date and have limited weight. However even if the Council were to determine that it does have such a supply, and policies on the supply of housing are not out of date, such policies are supportive of the principle of the development given the location.

The application site is currently occupied by an existing workingmen's club building which has fallen into a state of disrepair having being redundant for a number of years. As such the site meets the definition of previously developed land (PDL) as identified within annex 2 of the NPPF.

The principle of residential development on this site by virtue of it representing development of PDL in a sustainable rural location is considered to comply with policies SP1 and ASP6 of the CSS, policy H1 of the local plan. The starting point is a strong presumption in favour of development unless any adverse impacts of doing so would outweigh the presumption.

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

Paragraph 124 of the recently published revised National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 127 of the revised framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the Core Spatial Strategy (CSS) lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the revised NPPF.

Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. R3 of Section 7 of that document states that new development must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are:-

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

As identified, the application site is currently occupied by an existing workingmen's club building which has fallen into a state of disrepair having being redundant for a number of years. The site is overgrown and has an untidy appearance within this village location.

The proposal is to replace the existing building with 7 detached dwellings in a cul-de-sac arrangement.

The appearance of the proposed dwellings would all be similar, other than plot 7 (to the front of the site), and have a suburban appearance, nearly identical to the existing properties on Minnie Close to the west of the application site.

It is clear that the proposed development seeks to maximise development on the site with 7 detached dwellings and associated garages but the proposed layout and appearance of the development would be in keeping with the area.

The Landscape Development Section (LDS) have raised a number of concerns with the proposal, including the impact and potential loss of trees. These trees are not covered by a tree preservation order (TPO) and whilst they do act as screening of the site (and existing buildings) from the north your officers do not consider them to be visually significant and are therefore not covered by the requirements of policy N12 of the local plan. Furthermore, a tree survey has been submitted to support the application and indicates that the better quality trees will be retained. Subject to the development being carried out in accordance with the tree report, suitable tree protection during construction and further landscaping to supplement the existing trees it is considered that the proposal would enhance the appearance of the area and protect the visual amenity of this edge of village location.

Subject to conditions, which would secure appropriate facing materials, boundary treatments, finished ground levels and soft landscaping, it is accepted that the proposals would meet the guidance and requirements of the NPPF and the Council's Urban Design Guidance SPD.

Would there be any adverse impact on residential amenity?

Paragraph 127 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The Council's Supplementary Planning Guidance (SPG) - Space Around Dwelling provides more detailed guidance on privacy and daylight standards including separation distances between proposed dwellings and new development in relation to existing dwellings.

The application site is adjacent to a number of residential properties, in particular no. 266 Heathcote Road beyond the eastern boundary and properties on Minnie Close beyond the western boundary.

266 Heathcote Road is set on a lower level compared to the application site and in parts the difference is as much as 3-4 metres. Plots 3 and 4 of the proposed development would have rear elevations with principal windows which are angled towards the rear elevation of no. 266 which also has principal windows. The SPG advises that where principal windows do not directly overlook each other the 21m separation distance may be reduced to 17 metres, depending on height and topography. In this instance the properties would not face each other directly and a distance of 18 metres is achieved. This is considered acceptable when factoring in the change in ground levels and the position of windows in the proposed and existing dwelling.

Sections have also been submitted which show the elevated nature of the rear gardens of plots 3, 4 & 5. Details of the boundary treatments have not been submitted but carefully positioned fences, with an appropriate height, would mitigate the impact on no. 266 Heathcote Road. This should also be supplemented by tree or hedge planting on the slope between any rear fence line and the retaining wall which abuts the public footpath. This would help to minimise the impact from overlooking of the garden area of no. 266 but by virtue of the proposed development it is acknowledged that some level of overlooking, when compared to the current circumstance, is inevitable.

Acceptable separation distances would also be achieved between the proposed plots and properties on Minnie Close, in accordance with the SPG.

As discussed, the LDS has raised a number of concerns with the proposals including the steepness of some of the rear garden areas and whether this would make these areas under used. It is accepted that the rear gardens of plots 4, 5 and 6 in particular would have a steep gradient and an amended layout has been submitted which shows a stepped rear garden and retaining structures. It is

accepted that this solution now provides an acceptable level of usable private amenity space for each plot. Other areas of the rear garden will need to be left as soft landscaping due to the steepness but these areas should be protected by condition so that any tree and hedge planting is maintained for privacy reasons.

There is also a need to remove permitted development rights for extensions, roof alterations and outbuildings (classes A, B, C & E of part 1, schedule 2 of the General permitted Development Order 2015, as amended) due to the constraints of the site and due to the proximity of neighbouring residential properties and the further likely further impact that such additions could have if not suitably controlled.

In conclusion it is considered that subject to suitably boundary treatment and landscaping which can be secured through suitably worded conditions a good standard of amenity for all existing and future occupants of land and buildings, as required by the NPPF, could be achieved.

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

The proposed main access is to be formed off Co-Operative Lane with a cul-de-sac arrangement serving 6 of the proposed dwellings with one of the dwellings also direct access off the lane.

The submitted plans show that adequate visibility can be provided for the proposed dwellings and also how a refuse truck would manoeuvre the main access and site.

Local Plan Policy T16 details that for four bedroom dwellings there should be a maximum of three off street car parking spaces per dwelling. In this instance each dwelling would have two spaces on the drive and a private garage.

The Highways Authority has raised no objections subject to conditions which would ensure satisfactory access and car parking arrangements for the seven dwellings.

Subject to the conditions advised by HA the development is unlikely to cause any significant highway safety concerns.

S106 obligation considerations

The proposals generate a floor area of less than 1000 square metres of floor space and the PPG sets out that affordable housing should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres.

Paragraph 34 of the Framework states that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

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

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

In this case LDS are not seeking open space on the site itself but instead are requesting a total contribution of £39,053 (7 x £5579) for the development to be secured for Public Open Space (POS) improvement and maintenance. The sum, it is proposed, would be spent on improvements to the play area at Station Road, Miles Green, which is approximately 870m from the application site.

Both the NLP and the CSS form part of the approved development plan for the area. In this case the CSS is more up to date than the NLP. In addition the application of the Open Space Strategy in the determination of planning application is consistent with paragraph 96 of the Framework which indicates that policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.

The development applied for is below the local plan policy C4 trigger threshold and it could be argued that the request is contrary to policy. It is, however, considered that the contribution accords with the CSP5 of the CSS which, as indicated above, specifies that developer contributions will be sought in accordance with the Green Space Strategy or any approved or replacement Strategy. As this policy is more up to date and is fully compliant with the Framework it should be given greater weight than LP policy C4.

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 floor space of no more than 1,000 square metres. The proposal is such a development.

A tariff style contribution is defined as one where the intention is to require contributions to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The Landscape Development Section has indicated that they propose that the contribution in this case would be applied to improvements to the playground at Station Road, Miles Green. The parish council have requested that any POS contribution received should be allocated and spent at a play area at Harrison Close which is a 410m walk from the application site. LDS have raised no objections to this and on balance it is considered more directly related than to the proposed development than the Station Road playground.

Whilst the amount is calculated on a “sum per dwelling” basis it is not considered to meet the definition in the Guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such contributions in this case.

The Framework advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 1 of the Framework states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

The applicant has stated that the scheme cannot support the requested policy compliant contributions towards POS and independent financial advice is now being sought by the Authority.

A further report will therefore be provided following an assessment of the independent appraisal that has been received from Butters John Bee.

APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP3: Spatial Principles of Movement and Access
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP5: Open Space/Sport/Recreation
Policy CSP10: Planning Obligations

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

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy C4: Open Space in New Housing Areas
Policy C22: Protection of Community Facilities
Policy IM1: Provision of Essential supporting Infrastructure

Other Material Considerations

[National Planning Policy Framework](#) (July 2018)

[Planning Practice Guidance](#) (March 2014, as updated)

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

[Supplementary Planning Guidance/Documents](#)

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

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

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

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

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

[Relevant Planning History](#)

None considered relevant to the determination of this planning application.

[Views of Consultees](#)

Audley Parish Council supports the principle of development on the brownfield site, subject to the Highways department's comments and the layout/design then being amended to comply. There may be a mine shaft (unregistered) under the site, which should be explored. The noted that the current scheme would seem to be overdevelopment. Sewage should connect down Cooperative Lane to the High Street. Any Section 106 open space contribution should be attributed to Halmer End (Harrison Close) play area.

The **Environmental Health Division** has no objections to the proposal subject to conditions regarding construction hours, contaminated land and design measures to address noise.

The **Highway Authority** raises no objections subject to conditions that secure the following;

- visibility splays prior to occupation (and kept free from obstruction);
- no occupation of the dwellings until the road, parking and turning areas have been provided;
- submission and approval of surfacing, surface water drainage and delineation of car parking spaces;
- access made redundant and the crossing to be reinstated to footway;
- the garages retained for parking; and
- submission and approval of a construction management plan

The **Landscape Section** raises concerns regarding the proposed development affecting trees roots which are important trees which are visually prominent and provide an important buffer/screen from the open countryside to the north. The layout should be revised in this area to better avoid the trees. There is also likely to be post development resentment of the trees by the occupants and would result in subsequent pressure for the felling or pruning of the trees. Concerns are also expressed about the steepness of the proposed rear gardens of certain plots. Conditions regarding tree protection/ Arboricultural Method Statement and a landscaping scheme are advised.

They also request a financial contribution for capital development/improvement of offsite open space of £4,427 in addition to £1,152 (per dwelling) for 60% of maintenance costs for 10 years. Total contribution £5,579 (per dwelling). The contribution is to be used for improvements to the play area at Station Road, Miles Green, which is approximately 870m away.

The **Coal Authority** raises no objections

United Utilities raise no objections subject to foul water and surface water conditions along with advisory notes.

The **Mineral and Waste Planning Authority** indicate that they have no comments on this application as the site is not within or near to any permitted waste management facility; and is exempt from the requirements of Policy 3 – Mineral Safeguarding in the Minerals Local Plan for Staffordshire 2015 – 2030 (site is within the village boundary).

Representations

Three letters of objection have been received raising the following concerns;

- Loss of light and privacy to neighbouring rear gardens,
- On street car parking would be exacerbated,
- Existing trees should be maintained,
- The development would be overbearing, and
- Properties should be 21 metres from neighbouring properties,

Applicant/agent's submission

The application is accompanied by a Design & Access Statement, Arboricultural Report, Ecology Report and a Phase 1 Contamination Report. These documents are available for inspection at the Guildhall and searching under the application reference number 18/00329/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00329/FUL>

Background Papers

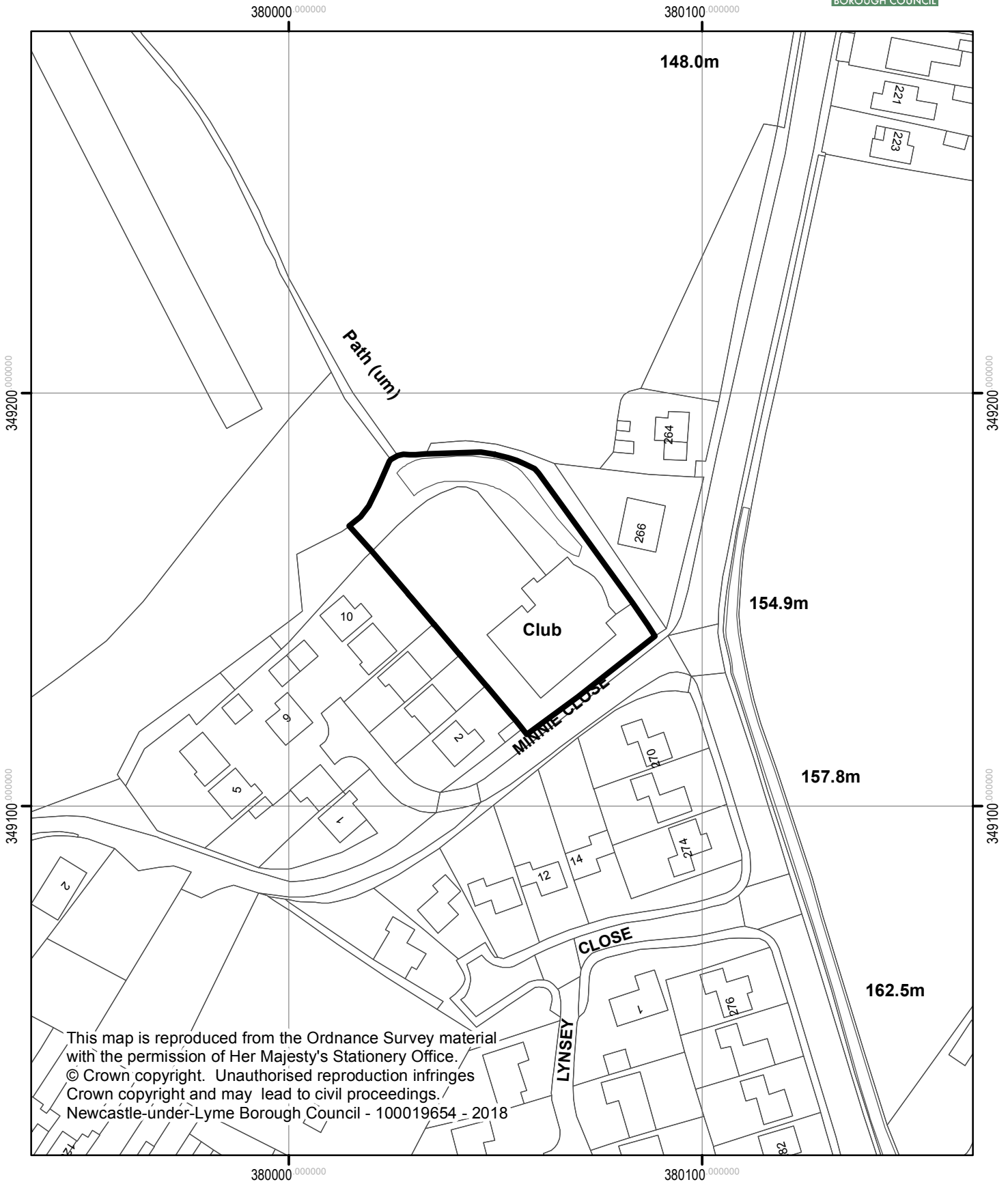
Planning files referred to

Planning Documents referred to

Date report prepared

25th September 2018

**Former Halmerend And District Working Mens Club
Co Operative Lane
Halmerend**



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OLD HALL, POOLSIDE, MADELEY
MR GARY WHITE

18/00620/LBC

The application is for listed building consent to make a change to an attic window so that a panel, which is currently fixed, can then be opened.

The Old Hall is a Grade II* listed building within the village of Madeley, as indicated on the Local Development Framework Proposals Map.

The statutory 8-week period for the determination expires on the 3rd October 2018 but the applicant has agreed an extension time to the statutory determination period to the 16th October.

RECOMMENDATION

Permit, subject to the following conditions relating to;

- **Time limit condition**
- **Development to be carried out in accordance with the approved plans and submitted details**

Reason for Recommendation

The development would preserve the special character and appearance of the Grade II* Listed Building, and subject to the works being carried out in accordance with the submitted details, it is considered that the works would comply with policy B6 of the Newcastle under Lyme Local Plan 2011, policy CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006 – 2026, and the guidance and requirements of the National Planning Policy Framework 2018.

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

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

KEY ISSUES

Listed building consent is sought for a change to an existing attic window so that one of the fixed panels can be opened. The building is in use as bed and breakfast accommodation and is a Grade II* listed building which is described in the list description as a 15th Century Timber framed cottage with 17th century additions.

The only issue to address in the determination of the application is whether the proposal preserves the special character and appearance of the building.

In assessing applications for listed building consent the Planning Authority is required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 193 of the NPPF details that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

Policy B6 of the local plan indicates that the council will resist alterations and additions to a listed building that would adversely affect its character or its architectural or historic features. Policy CSP2 of the Core Spatial Strategy also seeks to ensure that development preserve and enhance the character and appearance of the historic heritage of the Borough.

Listed Building consent has been granted in recent years that has enabled the attic to be used as additional bed and breakfast accommodation.

The applicant indicates in their heritage statement that there is a lack of air flow through the loft which makes it difficult to sleep during the hot summer months. The front loft window already has an opening window and the proposal is to change a side gable attic window so that it can also be opened to address the identified issue.

Historic England, the Councils Conservation officer and CAWP have all raised no objections to the application on the grounds that it is a relatively minor change and one which will not be harmful to the character or significance of the building.

Subject to the works being carried out in accordance with the details submitted it is accepted that the change to the window would not result in a significant harm to the heritage asset and would comply with policy B6 of the local plan and the guidance and requirements of the NPPF.

APPENDIX

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

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

Policy CSP2: Historic Environment

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

Policy B5: Control of Development Affecting the Setting of a Listed Building

Policy B6: Extension or Alteration of Listed Buildings

Other material considerations include:

[National Planning Policy Framework \(July 2018\)](#)

[Planning Practice Guidance \(PPG\) \(2018\)](#)

Relevant Planning History

There is an extensive planning history relating to The Old Hall. The most recent and relevant entry is 15/01028/LBC & 16/00252/LBC for the reinstatement of a staircase and the removal of two cross braced trusses respectively

Views of Consultees

Madeley Parish Council raises no objections.

Historic England advises that on the information received they do not wish to make any comments.

The **Urban Design and Conservation Officer** advises that the building is a Grade II* Listed Building and therefore sensitive to changes. The application does not fully assess the significance of the historic asset but describes the proposals to make one of the fixed leaded lights in the attic into an opening leaded light. The attic rooms were recently and successfully converted into living accommodation and this is working well. The proposal is to alter one of the fixed windows to match the opening light in another of the attic rooms on the front gable. The proposal is a relatively minor change and one which will not be harmful to the character or significance of the building. It is therefore acceptable.

The **Conservation Advisory Working Party (CAWP)** raises no objections to the application and would like to ensure that there is careful detailing through consultation with the Conservation Officer.

Representations

None received.

Applicant/agent's submission

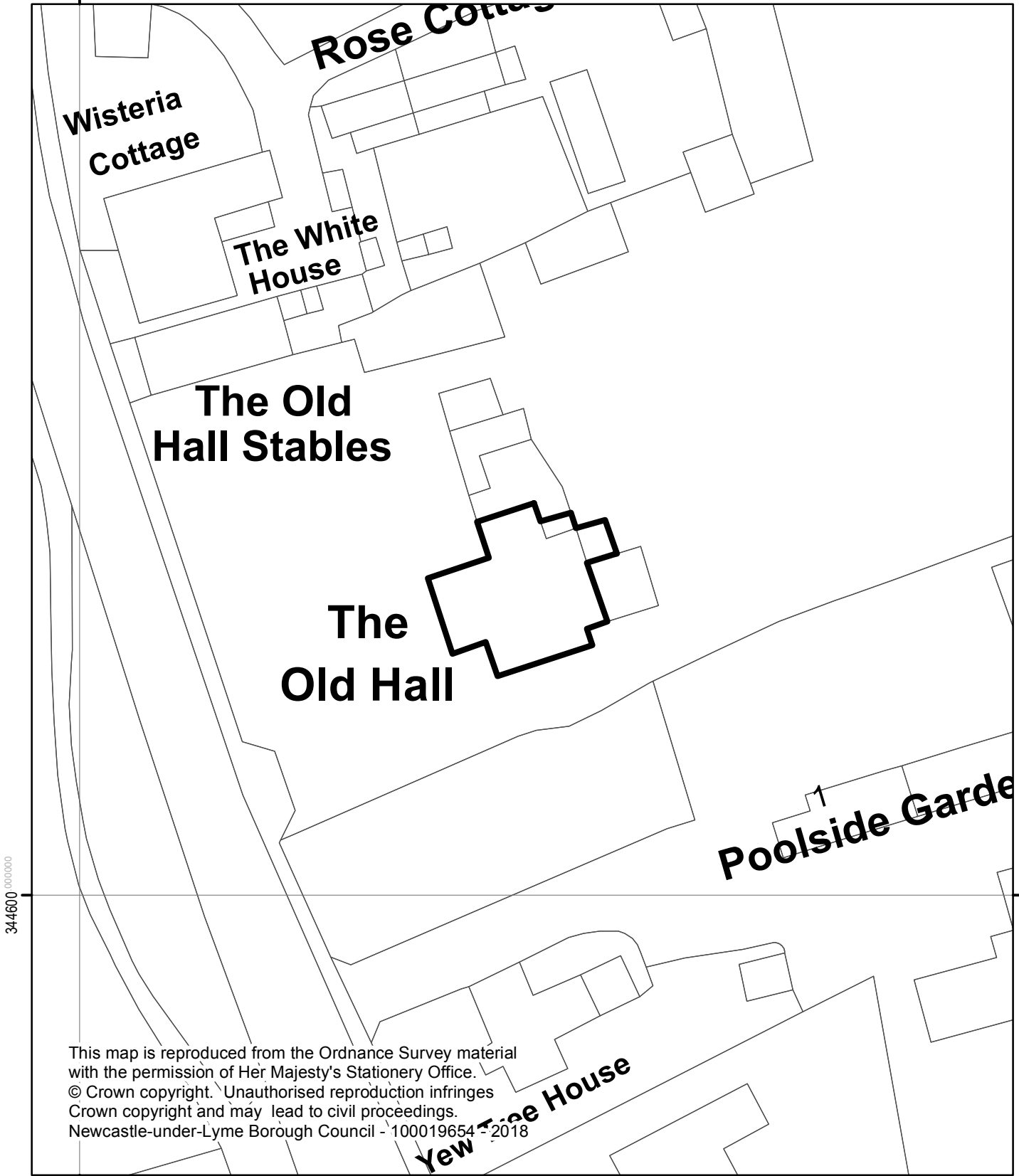
The application has been supported by a Heritage Design and Access Statement. This document is available for inspection on the Councils website by searching under the application reference number 18/00620/LBC on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00620/LBC>

Background Papers

Planning File
Development Plan

Date report prepared

19th September 2018



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APPEAL BY MR G IBBS AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE CONVERSION OF A STABLE BLOCK TO A DWELLING AT LAND AND BUILDINGS NORTH OF THE HAVEN, BUTTERTON ROAD, BUTTERTON

<u>Application Number</u>	18/00082/FUL
<u>LPA's Decision</u>	Refused under delegated authority 25th January 2018
<u>Appeal Decision</u>	Appeal allowed
<u>Date of Appeal Decision</u>	24th August 2018

The Appeal Decision

The Inspector identified the main issues to be whether the proposal amounts to inappropriate development in the Green Belt and whether the proposal would represent a suitable location for the proposed housing development, having regard to national and local policies which seek to achieve sustainable patterns of development.

In allowing the appeal the Inspector made the following comments:-

- Paragraph 146 of the Framework explains that the construction of new buildings is inappropriate in the Green Belt subject to a number of exceptions. One of these exceptions is the re-use of a building provided the building is of permanent and substantial construction. Since the proposal meets this criterion the proposal would not amount to inappropriate development and as such the effect on openness of the Green Belt and the purposes of including land within it do not need to be further considered.
- The appeal site lies outside any defined village envelope although on the edge of the small settlement of Butterson. There are dwellings to the west and south and development extends southwards in a linear pattern along both sides of the road. Therefore, although the site is within the countryside for planning policy purposes, it is nonetheless part of a small rural community. Consequently, it is considered that redevelopment for residential purposes would relate to this existing pattern of housing and would not appear as an isolated dwelling in the countryside.
- The appeal site is beyond the urban area of North Staffordshire where the majority of employment opportunities and other facilities are located. The closest primary school is about 2km away and the closest shops in Clayton are about 3km away. There are bus stops on the A53 which provide an hourly service but they fall outside the 400m national recommended distance for a suitable walking distance from a property to a bus stop.
- Therefore it is accepted that a new dwelling in this location would conflict to some extent with one of the Framework's core principles, which is to actively manage growth by making the fullest possible use of public transport, walking and cycling, and focussing significant development in locations which are or can be made sustainable. The Council's case rests largely on this issue, saying that future occupiers would be largely reliant on the private car to access day-to-day facilities and needs. Realistically, future residents are unlikely to walk or even to cycle to services and facilities in the closest villages. However, paragraph 84 of the Framework recognises that rural sites may have to be found beyond existing settlements and in locations not well-served by public transport. The appeal site is considered to be one such rural site.
- The proposal would meet the requirement of paragraph 78 of the Framework that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. The appeal proposal would meet this objective. Whilst it is not accepted that the building is redundant or disused (it is currently used for some storage), the site is not considered to be isolated in the terms of Framework paragraph 79.

- Overall, the appeal site is a suitable location for the proposed development having regard to local and national policies which seek to achieve sustainable patterns of development.
- In relation to highway concerns, the Highway Authority has raised no objections subject to conditions and there is no reason to disagree. Although flooding has been raised as a potential problem, this matter could be addressed by condition.
- The Council's Landscape Development Section requested a public open space contribution but because of the distances from the site to the nearest areas of open space it cannot be argued that the occupiers of this dwelling would place additional pressure on such facilities. As such, the Inspector agreed with the Planning Officer's conclusion that it would be inappropriate to seek to secure an obligation requiring a contribution towards public open space provision in this case.
- Having concluded that the location is suitable for residential development, it is now necessary to determine whether the proposal is sustainable in the context of the Framework's policies taken as a whole. Paragraph 8 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The delivery of an additional dwelling, albeit very modest in itself, is nonetheless a social benefit of the scheme given the acknowledged under-supply of housing in the Borough. This is an important material consideration in favour of the proposal. There would also be limited economic benefits arising from the conversion and occupation of the dwelling, and the additional support arising for local employment and services. No environmental harm has been found.
- It is concluded that the appeal should be allowed.

Recommendation

That the appeal decision be noted.

APPEAL BY MR G HAROLD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE ERECTION OF THREE DWELLINGS (OUTLINE) AT WAGGON AND HORSES, NANTWICH ROAD, NEWCASTLE-UNDER-LYME

<u>Application Number</u>	18/00121/OUT
<u>LPA's Decision</u>	Refused under delegated authority 10th April 2018
<u>Appeal Decision</u>	Appeal allowed
<u>Date of Appeal Decision</u>	28th August 2018

The Appeal Decision

The Inspector identified the main issues to be whether the proposal amounts to inappropriate development in the Green Belt and whether the proposal would represent a suitable location for the proposed housing development, having regard to national and local policies which seek to achieve sustainable patterns of development.

In allowing the appeal the Inspector made the following comments:-

Whether inappropriate development in the Green Belt

- Paragraph 145 of the Framework explains that the construction of new buildings is inappropriate in the Green Belt subject to a number of exceptions. One of these exceptions is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt or the purposes of including land within it than the existing development.
- There is no dispute between the main parties that the site may be considered previously developed land and based on the evidence 'on the ground' there is no reason to disagree.
- Turning to the other qualifying criteria of Framework paragraph 145, the proposal would not conflict with the purposes of including land within the Green Belt. With regard to the effect on openness, the derelict public house is a large building with extensive hard-surfaced car parking areas. Consequently, although the application is made in outline and the size of the dwelling is not known at this stage, residential development of the site and at the scale suggested on the indicative plan and Planning Statement would not have a greater impact on the openness of the Green Belt than the existing building and parking areas. Indeed, the Council has stated that based on the volume of a typical two-bedroom house, there could be a net reduction of 400 cubic metres.
- The proposal is not inappropriate development in the Green Belt and as such the issue of very special circumstances does not arise.

Suitability of the site's location – sustainable patterns of development

- The site lies outside any defined village envelope, being about 2.7 km from the centre of the village of Audley. However, immediately to the east of the site is a group of five cottages with a further dwelling beyond. Therefore, although the site is within the countryside for planning policy purposes, it is nonetheless part of a small rural community. Consequently, it is considered that redevelopment for residential purposes would relate to this existing ribbon of housing and would not appear as isolated development in the countryside.
- It is accepted that a scheme for new housing in this location would conflict to some extent with one of the Framework's core principles, which is to actively manage growth by making the fullest possible use of public transport, walking and cycling, and focussing significant development in locations which are or can be made sustainable. The Council's case rests largely on this issue, saying that future occupiers would be

largely reliant on the private car to access day-to-day facilities and needs. Realistically, future residents are unlikely to walk or even to cycle to services and facilities in Audley on a day-to-day footing. However, paragraph 84 of the Framework recognises that rural sites may have to be found beyond existing settlements and in locations not well-served by public transport. The appeal site is considered to be one such rural site.

- The proposal can be considered as reasonably compliant with the Framework's advice that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. Overall, it is considered that the appeal site is a suitable location for the proposed development.

Other considerations

- It is necessary to consider whether the proposal is sustainable in the context of the Framework's policies taken as a whole. Paragraph 8 identifies a three-stranded definition of sustainable development based on economic, social and environmental factors. The delivery of 3 dwellings, albeit a modest number, is nonetheless a benefit of the scheme given the acknowledged under-supply of housing in the Borough and this is an important material consideration in favour of the proposal. There would also be limited economic benefits arising from the construction and subsequent occupation of the dwellings, together with the additional support for local employment and services.
- The Council accepts that although the application is in outline, the site could accommodate three dwellings in a manner that would have no adverse impact on the character and appearance of the local landscape; particularly taking into account the current semi-derelict appearance of the site and buildings. This is likely to represent an improvement in terms of the environmental factor.

Conclusion

- Although a finely balanced decision, when viewed in the round the proposal would represent a sustainable form of development that would satisfy the development plan policies and the Framework's policies taken as a whole. Furthermore, no adverse impacts have been identified that would significantly and demonstrably outweigh the benefits of the proposal. Therefore, for the reasons given above and taking into account all other matters raised, it is concluded that the appeal should be allowed.

Recommendation

That the appeal decision be noted.

APPEAL BY MCDONALD'S RESTAURANTS LTD AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE VARIATION OF CONDITION NO. 4 OF PLANNING PERMISSION 99/00330/FUL TO ALLOW REVISED OPENING HOURS FOR THE MAIN RESTAURANT TO BE OPEN BETWEEN 05:00 AND 00:00 HOURS SEVEN DAYS A WEEK, AND THE HOURS OF OPERATION OF THE 'DRIVE-THRU' FACILITY TO BE BETWEEN 00:00 AND 05:00 HOURS SEVEN DAYS A WEEK AT MCDONALD'S RESTAURANT, DIMSDALE PARADE WEST, NEWCASTLE-UNDER-LYME

<u>Application Number</u>	17/00856/OUT
<u>Recommendation</u>	Approval subject to conditions
<u>LPA's Decision</u>	Refused by the Planning Committee 8th December 2017
<u>Appeal Decision</u>	Appeal allowed
<u>Date of Appeal Decision</u>	10th September 2018

The Appeal Decision

The Inspector identified the main issue to be the effect that varying the condition would have on the living conditions of the occupiers of nearby residential properties, with particular regard to noise and other disturbance.

In allowing the appeal the Inspector made the following comments:-

- The appeal proposal follows a previously refused application and the appellant has sought to address the reason for refusal of that application and local residents' concerns in the current submission.
- The previous application included a comprehensive Noise Impact Assessment (NIA) which considered potential noise impacts arising from the proposed extension of opening hours, from plant and from vehicles and customers visiting the site. However, following the installation and operation of a new ventilation plant in an attempt to address previous noise concerns from that source, an updated NIA was carried out and submitted. Amongst other things this concluded that there would be no noise impact from the new plant on the occupiers of neighbouring properties, and showed a noise level of 39 dB (A) at the closest residential window compared with a figure of 51 dB (A) for the previous ventilation plant.
- Appendix 4 of the updated NIA report cites the operator's guidance on managing anti-social behaviour. This is in addition to the site specific Premises Noise Management Plan (PNMP) in the original NIA report. The PNMP lists procedures to identify, mitigate and address instances of anti-social behaviour including staff recording incidents, increased use of CCTV, additional signage requesting customers to keep noise to a minimum, restrictions on the use of the car park, no movement of bins before 07:00 and intercom decibel levels being turned down. Although many of these operational matters would be addressed through the premises licence, a condition could nonetheless be imposed to require the restaurant and drive-thru to be operated in accordance with the PMP.
- Overall the NIA provides technical evidence that the proposal will not have an unacceptable impact on the living conditions of nearby residents in terms of noise and disturbance from plant, vehicles and people, and the appellant is taking a proactive approach to the neighbour's concerns through the submission of the PNMP and acting upon operator's guidelines. There is very limited evidence from the Council to dispute these findings. Significantly, neither the Council's Environmental Health Division nor Staffordshire Police has raised any issues with regard to the potential for increased anti-social behaviour.
- With regard to traffic generation and increased use of the car park, the Highways Authority and the Council's Environmental Health Division have raised no objections with regard to increased traffic and congestion on surrounding streets during the

proposed extended hours. There is no reason to disagree with their professional assessments and it is accepted that most customers would visit the restaurant/drive thru as part of a trip to another destination, rather than making a destination trip solely to the premises.

- With regard to noise and disturbance from delivery vehicles, deliveries to the site would continue to be controlled by conditions attached to the original permission. In any event no alteration to the approved delivery regime is indicated as part of this proposal.
- Overall, and although a carefully balanced decision, the proposed extended opening hours would not result in significantly increased levels of noise and disturbance to nearby residents, subject to the imposition of appropriate conditions and requirements for compliance with the various mitigation measures set out in the PMP.
- The disputed condition is neither necessary nor reasonable in order to safeguard the living conditions of nearby residents, with particular regard to noise and other disturbance. It would amount to a sustainable form of development that would satisfy the policies of the development plan and the Framework when taken as a whole.
- Although considerable local feeling has been demonstrated, for the reasons given above none is sufficient to alter the conclusions.
- In conclusion the proposal would amount to a sustainable form of development that would satisfy the policies of the Framework when taken as a whole. Therefore, for the reasons given and taking into account all other matters raised, the appeal should be allowed.

Recommendation

That the appeal decision be noted.

Confirmation of Tree Preservation Order

Trees at Sunnyside, Pinewood Drive, Loggerheads

Tree Preservation Order No 194 (2018)

Town & Country Planning Act 1990

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

The Provisional Order

The Provisional Tree Preservation Order protects trees at Sunnyside, which is a site that has been subject to a recent outline and reserved matters planning applications.

The provisional Tree Preservation Order was served using delegated powers on 15/05/2018. The consultation period ended on 12/06/2018.

Approval is sought for the order to be confirmed as made.

The 6 month period for this Order expires on 14th November 2018

RECOMMENDATION

That Tree Preservation Order No 194 (2018), Sunnyside, Pinewood Drive be confirmed as made and that the owners of the site be informed accordingly.

Reasons for Recommendation

Background

This site had been subject to a recent outline planning application, and although no reserved matters application has been submitted considerable tree loss and pruning works had been undertaken. A subsequent reserved matters application included further tree loss which could not be supported. Damage had taken place to trees on this site as vehicles have recently tracked over ground with no Tree Protection fencing installed.

There are trees on this site which are already affected by Tree Preservation Order T7/9.

As a result of recent tree loss, remaining trees have an increased importance as views into the site had been opened up considerably.

Trees on this site make a valuable contribution to the local setting and are clearly visible from Pinewood Drive, Eccleshall Road and from publically accessible woodland to the South west.

The trees make a valuable contribution to the local landscape and their loss would have a detrimental effect on the visual amenity, not only of the site but also to the locality.

Trees identified good shape physiological and structural condition (confirmed in the site owners own inspection), and are of a sufficient quality to be retained.

In order to protect the long term well-being of these trees, they should be protected by a Tree Preservation Order.

Representations

Following the consultation period two representations were received.

One representation supported the order:

We agree with your comments and your subsequent objection that has been logged on the planning website, and consider the preservation order a must considering the work that has been undertaken with total disregard taken to protect the trees and roots in accordance with requirements and landscaping.

One representation objected to the order:

I am objecting for the following reasons and question your reasons for placing TPO194

You state your reasons for putting the order in place is for the following:

This site has been subject to a recent outline planning application, and although no reserved matters application has been submitted considerable tree loss and pruning works have been undertaken. The recent reserved matters application includes further tree loss which cannot be supported. Damage has taken place to trees on this site as vehicles have recently tracked over ground with no Tree Protection fencing installed.

No tree on this site has been cut down which was not already approved in the outline planning application. Trees that were agreed to be removed under the outline planning application have now been protected by a TPO. No works have been undertaken under this application, the only works that have been carried out are by the house holder. No damage has taken place to any trees on this site as no vehicles have tracked over the ground. No tree protection fencing has been put in place as no construction work has taken place. I am therefore at a loss as to why this reason has been given for placing the order for TPO194. I have to ask why this was not put in place 2 years ago when the outline planning application was submitted which clearly detailed the works that were to be carried out?

You then state in your letter:

As a result of the recent tree loss, remaining trees have an increased importance as views in to the site opened up considerably.

I have to say again, you were fully aware of this under the approved outline planning application, so why did you not put a TPO order in 2 years ago when you reviewed the outline planning application?

Your next justification:

The trees make a valuable contribution to the local landscape and their loss would have a detrimental effect on the visual amenity, not only of the site but also to the locality.

This is not the only calculation needed to take in to account when determining a TPO order, you also need to take in to account, condition, structure, visibility before after the development, life expectancy, rarity and many other factors.

Your final justification!

The trees identified good shape physiological and structural condition, and are of a sufficient quality to be retained.

I would like to draw your attention to David Bailey's tree report submitted as part of the **agreed** outline planning application. In this report, it shows that out of the 10 trees listed under TPO194, 80% are category C trees of low quality, 80% have a life expectancy of no more than 20 years. This clearly shows that the trees do not warrant a TPO

T1/NS26	FAIR COND	>10-20 YEARS	LARGE TREE	CAT C
T2/NS23	GOOD COND	>20-40 YEARS	LARGE TREE	CAT B
T3/NS21	GOOD COND	>20-40 YEARS	LARGE TREE	CAT B
T4/W12	FAIR COND	>10-20 YEARS	SMALL TREE	CAT C
T5/CH11	FAIR COND	>10-20 YEARS	MEDIUM TREE	CAT C
T6/OK8	FAIR COND	>10-20 YEARS	LARGE TREE	CAT C
T7/NS6	FAIR COND	>10-20 YEARS	LARGE TREE	CAT C
T8/SB4	FAIR COND	>10-20 YEARS	SMALL TREE	CAT C
T9/SB3	FAIR COND	>10-20 YEARS	SMALL TREE	CAT C
T10/SB1	FAIR COND	>20 YEARS	SMALL TREE	CAT C

When taking all of the above factors in to account which are required when justifying the amenity value of a tree which allows a TPO order to be placed on it, I cannot find any justification for TPO194.

After having my own Tree Evaluation Method for Preservation Order carried out onsite it has been identified that that 7 of the trees do not justify a TPO order and 3 of the trees would warrant further evidence if a TPO order was to be placed.

In summary, you have provided no sound justification for the amenity values for the trees what so ever to issue TPO194, the reasons you have provided are poor, unjustified and have no evidence. To place this order 2 years after the outline planning was approved is totally unacceptable. I must insist that TPO194 is not confirmed and is withdrawn immediately. In the event that this is not withdrawn you will leave me with no option other than to pursue this matter through a more formal route.

Officers consider that the main issues covered in the objection are:

The outline permission granted in October 2016

The applicant states that no tree on this site has been cut down which was not already approved in the outline planning application.

The outline approval did not give permission to carry out tree works. This permission secured was for all matters to be reserved except for access. Condition 13 states that 'a schedule of works to retained trees' was required to be approved; this is irrespective of whether they were covered by the Tree Preservation Order. Officers had concerns about some of the works that had been suggested in the arboricultural report which was why the additional information had been requested by way of the planning condition.

The representation questions why order was not put in place two years ago when the outline planning application was submitted.

Officers did not consider that trees on the site were under any threat two years ago, as no unauthorised tree works had taken place. Suitable planning conditions had been applied to ensure that trees would be fully considered at the reserved matters application stage.

Following the outline permission unauthorised tree works took place on site (including works to trees that were affected by the existing TPO T7/9). The subsequent reserved matters application denoted a further loss of trees including the loss of an additional category B tree (NS23) to accommodate a garage. The submitted landscaping plan (which if approved would also be part of the decision) showed the retention of only 10 of the existing trees.

As a result of the works carried out and further loss that was proposed, officers considered that in order to protect the long term well-being of the remaining trees they should be protected by a Tree Preservation Order.

Damage to trees on site

No damage has taken place as no vehicles have tracked over the ground.

Officers visited the site when vehicles were present on site and the applicants arboricultural consultant refers to trafficking over the outer perimeter of Root Protection Areas.

Justification for the Tree Preservation Order

The representation questions that 10 category C trees have been included in the order with life expectancy of no more than 20 years and that no justification for the amenity value of the trees, reasons are poor unjustified and have no evidence.

All of the trees that have been protected have been assessed by the applicants own arboricultural consultant as good or fair condition, and of good physiological and structural condition.

Officers had questioned some of the low categories allocated by the applicant's consultant (which corresponds to life expectancies) to the more major trees on this site early in the outline application phase.

Officers completed a full Tree Preservation Order Assessment and are satisfied that the protected trees do have sufficient remaining life to warrant protection through the tree preservation order.

All of the trees affected by the new tree preservation order are visible from publically accessible positions on Pinewood Drive, Eccleshall Road and from publically accessible woodland to the South west. The trees make a valuable contribution to the local landscape and their loss would have a detrimental effect on the visual amenity, not only of the site but also to the locality.

As a result of recent tree loss, remaining trees have an increased importance as views into the site have been opened up considerably.

Issues

Following the serving of the provisional Tree Preservation Order, adjustments were made to the proposed layout which allowed for the retention and protection of all protected trees. This reserved matters application (18/00296/REM) was approved on 31st July 2018 subject to planning conditions.

The making of the Order will not prevent the owner from carrying out good management of the trees, nor improving or developing the site, 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.

In order to protect the long term well-being of the remaining trees on this site they should be protected by a confirmed Tree Preservation Order.

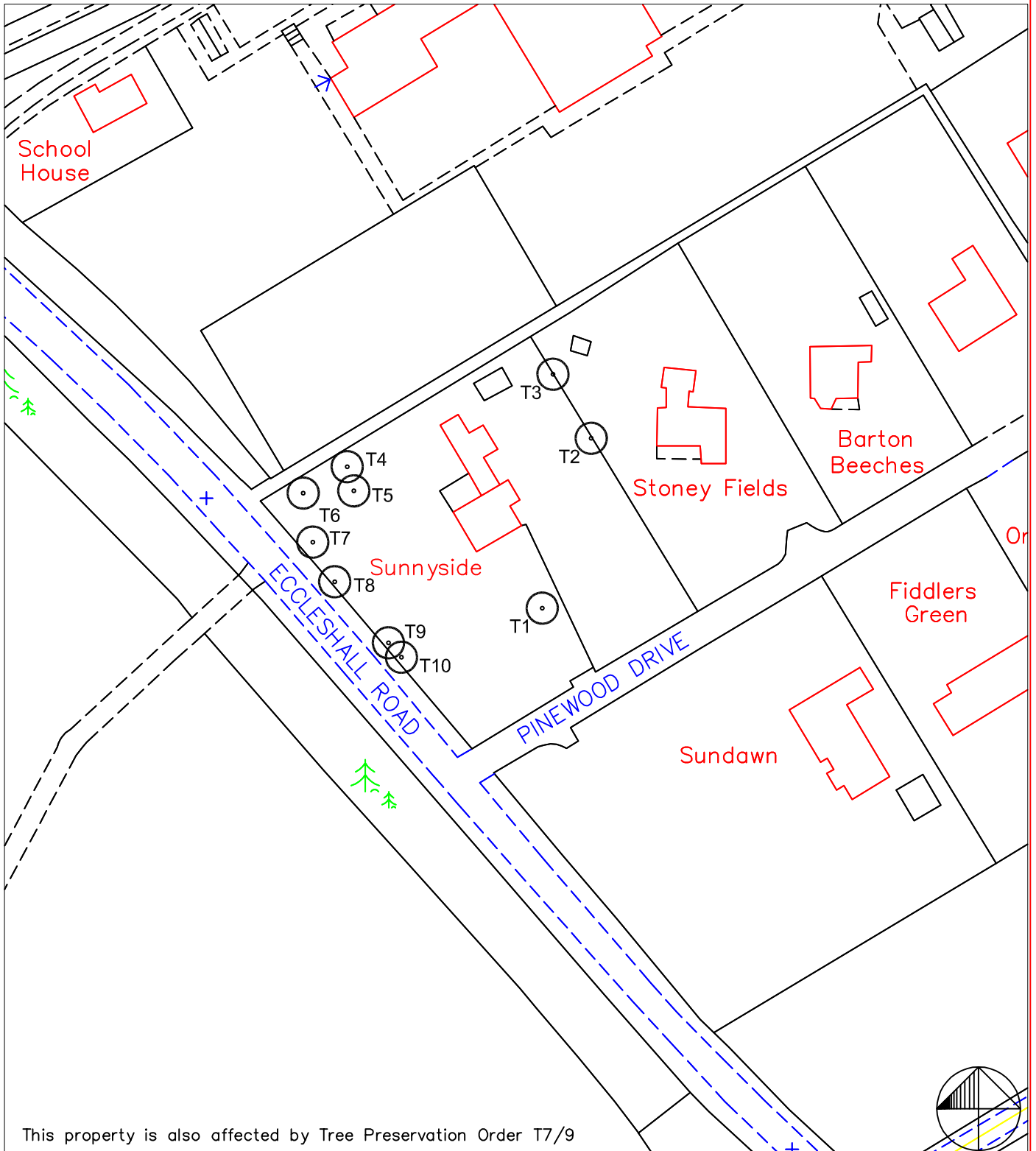
Date report prepared

27th September 2018

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SIGNED:

DATED:15th May 2018



This property is also affected by Tree Preservation Order T7/9

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DAVE ADAMS
EXECUTIVE DIRECTOR –
OPERATIONAL SERVICES
CIVIC OFFICES, MERRIAL
STREET
NEWCASTLE, STAFFORDSHIRE.
ST5 2AG

TITLE:
LAND AT SUNNYSIDE, PINEWOOD DRIVE, LOGGERHEADS

DESCRIPTION:
TREE PRESERVATION ORDER
NUMBER 194 (2018)

SCALE:
1:1000

DATE:
MAY 2018

DRAWN BY:

Page 71

DRAWING NO.
TPO 194

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Confirmation of Tree Preservation Order

Oak tree at Evergreen, Manor Road, Baldwins Gate

Tree Preservation Order No 195 (2018)

Town & Country Planning Act 1990

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

The Provisional Order

The Provisional Tree Preservation Order protects an individual mature Oak tree, situated in a visually prominent roadside position at the front of Evergreen on Manor Road.

The provisional Tree Preservation Order was served using delegated powers on 15/05/2018. The consultation period ended on 12/06/2018.

Approval is sought for the order to be confirmed as made.

The 6 month period for this Order expires on 14th November 2018

RECOMMENDATION

That Tree Preservation Order No 195 (2018), Evergreen, Manor Road, Baldwins Gate be confirmed as made and that the owners of the site be informed accordingly.

Reasons for Recommendation

Background

The individual Oak tree makes an important contribution to the local landscape being a highly visually prominent, positioned on an elevated roadside frontage. The tree is on the edge of the Madeley Park Wood development and makes a valuable contribution to the roadside setting, as well as its contribution to the treed backdrop feature when viewed from public footpaths to the west.

The Oak tree makes a valuable contribution to the local landscape and its loss or disfigurement would have a detrimental effect on the visual amenity, not only of the site but also to the locality.

The tree is of a good shape and form, with a full and healthy crown, and is of a sufficient quality to be retained.

Representations

Following the consultation period no representations were received.

Issues

The tree has been previously crown raised and pruning has also been undertaken to clear branches and foliage from cables. There is also evidence of historic pruning of some

significant limbs, nonetheless, it retains a good shape, and has sufficient space to grow and develop in the future.

The tree is of a good shape and form, with a full and healthy crown, and is of a sufficient quality to be retained.

Notifications of the owners' intention to crown reduce the tree due to concerns about its position on a bank, and to let more light into the garden has been received. Officers are of the opinion that a crown reduction on this tree would spoil its appearance and could have a negative effect upon its health.

Upon inspection there are no signs of instability or ill health in the tree, although a climbing inspection (to include previously pruned limbs in the upper crown) would be advised.

Whilst other trees within Evergreen are affected by Tree Preservation Order T7/8, the Oak tree is not covered by this order.

In order to protect the long term well-being of this tree, it should be protected by a Tree Preservation Order.

The making of the Order will not prevent the owner from carrying out good management of the trees, nor improving or developing the site, 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.

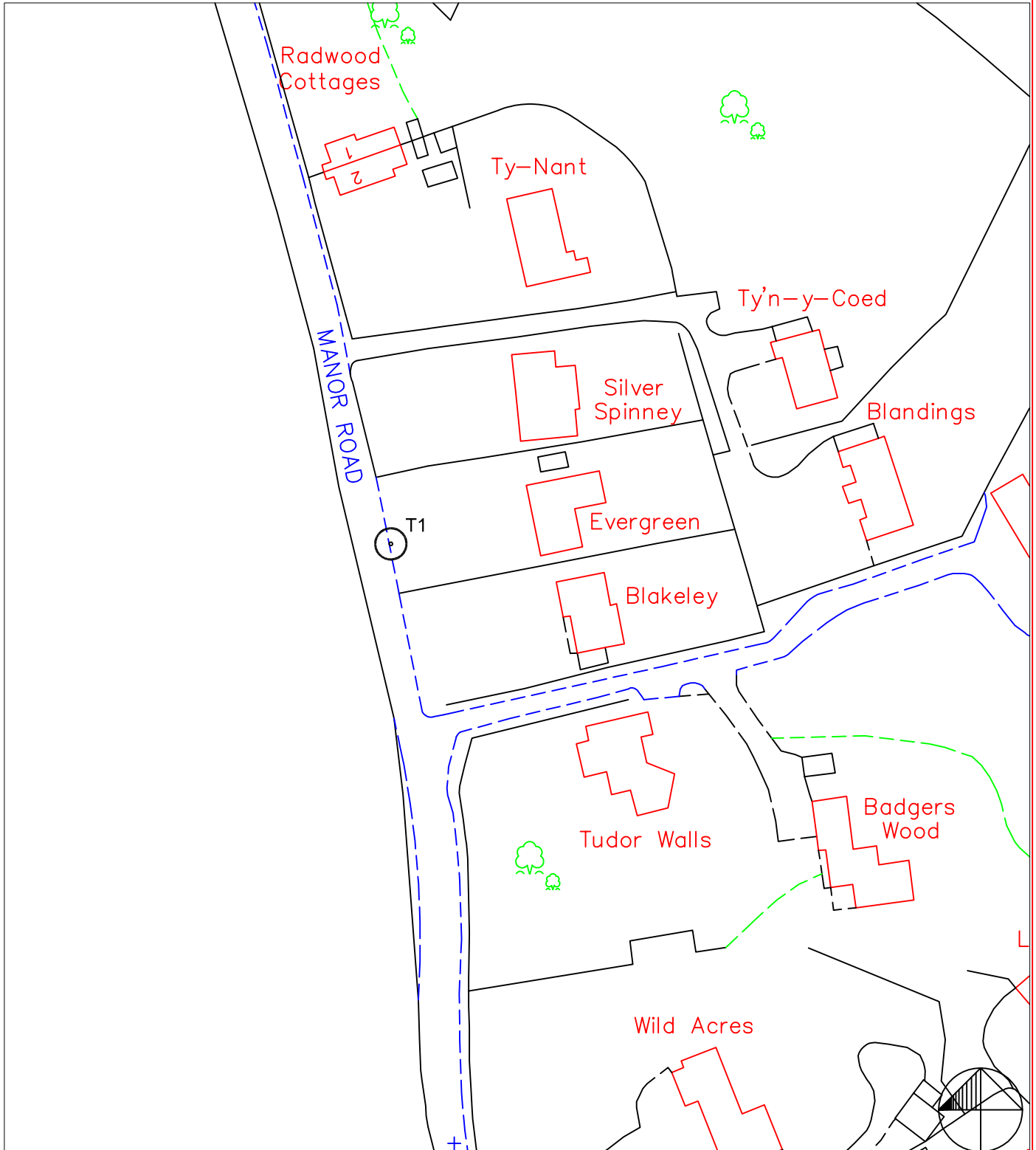
In order to protect the long term well-being of this tree, it should be protected by a Tree Preservation Order.

Date report prepared

10th September 2018

SIGNED:

DATED:15th May 2018.



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DAVE ADAMS
EXECUTIVE DIRECTOR -
OPERATIONAL SERVICES
CIVIC OFFICES, MERRIAL
STREET
NEWCASTLE, STAFFORDSHIRE.
ST5 2AG

TITLE:
LAND AT EVERGREEN, MANOR ROAD, BALDWINS GATE

DESCRIPTION:
TREE PRESERVATION ORDER
NUMBER 195 (2018)

SCALE:
1:1000

DATE:
May 2018

DRAWN BY:
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DRAWING NO.
TPO 195

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