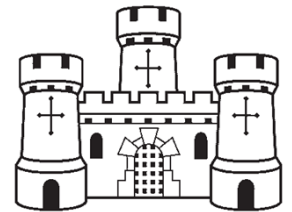


Public Document Pack

Date of meeting Tuesday, 6th November, 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)** (Pages 5 - 10)
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - FORMER BENNETT ARMS, LONDON ROAD, CHESTERTON. MR ANDREW GREEN. 18/00371/FUL** (Pages 11 - 20)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF WOODROW WAY, ASHLEY. MARCUS MACHINE & TOOLS LIMITED. 17/00605/FUL** (Pages 21 - 26)
- 6 **APPLICATION FOR MINOR DEVELOPMENT - LAND OFF SANDFORD STREET, CHESTERTON. ASH GREEN (HOLDINGS) LTD. 18/00559/FUL** (Pages 27 - 36)
- 7 **APPLICATION FOR MINOR DEVELOPMENT - LAND ADJACENT TO FARCROFT, MANOR ROAD, BALDWIN'S GATE. MR G ADAMS. 18/00674/OUT** (Pages 37 - 46)
- 8 **APPLICATION FOR MINOR DEVELOPMENT - LAND AT DODDLESPool, MAIN ROAD, BETLEY. MR. MARK OULTON. 18/00299/FUL** (Pages 47 - 56)
- 9 **MID-YEAR DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2018/2019** (Pages 57 - 66)

- 10 APPLICATION FOR MINOR DEVELOPMENT - 121 - 123 HIGH STREET, WOLSTANTON. RIGHT FINANCIAL PLANNING LTD (MR ABAD KHAN) 18/00467/FUL (Pages 67 - 76)
- 11 QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO (Pages 77 - 82)
- 12 QUARTERLY ENFORCEMENT MANAGEMENT REPORT (Pages 83 - 86)
- 13 REPORT ON OPEN ENFORCEMENT CASES (Pages 87 - 88)
- 14 APPEAL DECISION - BROOK FARM, 4 OAKWOOD LANE, ACTON. 17/00877/FUL (Pages 89 - 90)
- 15 MAER CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN SUPPLEMENTARY PLANNING DOCUMENT (Pages 91 - 96)
- 16 ARTICLE 4 DIRECTION FOR KEELE CONSERVATION AREA (Pages 97 - 104)
- 17 APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - TOWER, KIDSGROVE (Ref: 18/19003/HBG). (Pages 105 - 106)
- 18 SCHEME FOR PUBLIC SPEAKING AT PLANNING COMMITTEE.REVIEW OF POLICY REGARDING DISPLAY OF MATERIAL (Pages 107 - 108)
- 19 DISCLOSURE OF EXEMPT INFORMATION
- To resolve that the public be excluded from the meeting during consideration of the following item(s) because it is likely that there will be a disclosure of exempt information as defined in paragraphs 1,2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.
- 20 QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED (Pages 109 - 112)
- 21 URGENT BUSINESS
- To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

Members: Councillors S. Burgess, Mrs J Cooper, A. Fear (Chair), H. Maxfield, P. Northcott, S. Pickup, B. Proctor, M. Reddish (Vice-Chair), C. 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.

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PLANNING COMMITTEE

Tuesday, 9th October, 2018
Time of Commencement: 7.00 pm

Present:- Councillor Andrew Fear – in the Chair

Councillors Burgess, Mrs J Cooper, Maxfield,
Northcott, Pickup, Reddish, S Tagg,
G White, G Williams and J Williams

Officers Nick Bromley, Geoff Durham - Mayor's
Secretary / Member Support Officer,
Jennet Hough, Elaine Moulton, Trevor
Vernon -Solicitor and Darren Walters

Apologies Councillor(s) Proctor and Spence

1. APOLOGIES

Apologies were received from Councillors' Proctor and Spence.

2. DECLARATIONS OF INTEREST

Councillor Gary White declared an interest in application 18/00620/LBC as the applicant and owner of the property.

3. MINUTES OF PREVIOUS MEETING(S)

Resolved: That the minutes of the meeting held on 27 September, 2018 be agreed as a correct record.

4. APPLICATION FOR MAJOR DEVELOPMENT - FORMER BENNETT ARMS, LONDON ROAD, CHESTERTON. MR ANDREW GREEN. 18/00371/FUL

Resolved: That a decision on the application be deferred but only until the 6th November, to allow a further opportunity for additional information to be provided, consulted upon and taken into account by the Local Planning Authority in its decision.

5. APPLICATION FOR MAJOR DEVELOPMENT - FORMER GARAGE, CEMETERY ROAD, SILVERDALE. ASHBOURNE PROPERTY HOLDINGS LTD. 18/00293/OUT

Resolved: (A) That, subject to the applicant first entering into a Section 106 agreement by 21st November 2018 to secure the following:
(1) a contribution of £5,579 per dwellings towards off site public open space at Park Road
(2) In perpetuity, provision of 25% of the dwellings on-site as affordable units.

The application be permitted subject to the undermentioned Conditions:

- (i) Time Limit for submission of reserved matters
- (ii) Approved Plans
- (iii) Construction Environmental Management Plan
- (iv) Existing site access made redundant to be closed and the crossing reinstated to footway
- (v) Internal and external noise level controls for dwellings
- (vi) Noise assessment of nearby commercial units and implementation of any mitigation measures arising from such an assessment
- (vii) Control of noise impacts arising from noise generating plant within the development
- (viii) Pest Management Plan
- (ix) Air Quality Assessment prior to first use of any combustion appliance
- (x) Air quality standards to be achieved from combustion plant within or serving the development
- (xi) Contaminated land conditions
- (xii) Prior approval of surface water drainage system

- (B) that, should the matters referred to in A(1) and A(2) 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.

6. APPLICATION FOR MAJOR DEVELOPMENT - 2 - 4 MARSH PARADE, NEWCASTLE UNDER LYME. MARSH BOX DEVELOPMENTS. 17/00722/FUL

Resolved: That it be agreed that:-

- (i) 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,
- (ii) 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.

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)

Resolved: That this item be deferred to a future meeting.

8. **APPLICATION FOR MINOR DEVELOPMENT - NEW FARM, ALSAGER ROAD, AUDLEY. MR. EMERY. 18/00122/FUL**

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

- (i) The site lies within the open countryside outside the village envelope of Audley and the proposed dwellings would not serve an identified local need. As such, the development of this site is contrary to the objective of directing new houses to sustainable brownfield land within the village envelopes of the key rural service centres and as such would be contrary to Policies SP1 and ASP6 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy H1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2018).
- (ii) In the absence of a secured planning obligation there is not an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of a policy compliant financial contribution towards public open space and onsite affordable housing is not achieved. The proposal would thus be contrary to Policies CSP5, CSP6 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, saved Policies C4 & IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2018).

9. **APPLICATION FOR MINOR DEVELOPMENT - FORMER HALMEREND WORKING MENS CLUB. KELLY HOMES. 18/00329/FUL**

Resolved: (A) That, subject to the applicant first entering into a Section 106 agreement by 20th November 2018 to secure a review mechanism of the scheme's ability to make a policy compliant contribution 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 and the provision of such affordable housing if found financially viable,

the application be permitted subject to the undermentioned conditions:

- (i) Standard Time limit for commencement of development
- (ii) Approved Plans
- (iii) Facing and Roofing Materials
- (iv) Boundary Treatments, including retaining walls
- (v) Finished Ground and Floor Levels
- (vi) Removal of permitted development rights
- (vii) Visibility splays prior to occupation (and kept free from obstruction)
- (viii) Road, parking and turning areas prior to occupation
- (ix) Surfacing, surface water drainage and delineation of car parking spaces;

- (x) Existing site access made redundant to be closed and the crossing reinstated to footway;
- (xi) Garages retained for parking;
- (xii) Construction management plan
- (xiii) Tree protection plan
- (xiv) Arboricultural Method Statement
- (xv) Detailed Landscaping Scheme, including tree retention, replacement tree planting, and tree and hedge planting at the rear of plots 3 and 4.
- (xvi) Land Contamination
- (xvii) Construction Hours
- (xviii) Design measures to minimise noise on future occupiers
- (xix) Foul and surface water drainage details
- (xx) Ecology mitigation measures

(B) That, 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.

10. APPLICATION FOR OTHER DEVELOPMENT - OLD HALL, POOLSIDE, MADELEY. CLLR G WHITE. 18/00620/LBC

Councillor Gary White remained in the room during consideration of the next item but took no part in the debate.

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

- (i) Time limit condition
- (ii) Development to be carried out in accordance with the approved plans and submitted details

11. APPEAL DECISION - LAND AND BUILDINGS TO THE NORTH OF THE HAVEN, BUTTERTON. 18/00082/FUL

Resolved: That the decision be noted.

12. APPEAL DECISION - WAGGON AND HORSES, NANTWICH ROAD, AUDLEY. 18/00121/OUT

Resolved: That the decision be noted.

13. APPEAL DECISION - MACDONALDS, BRADWELL. 17/00856/OUT

Resolved: That the decision be noted.

14. TREE PRESERVATION ORDER - LAND AT SUNNYSIDE, PINWOOD DRIVE, LOGGERHEADS. TPO194

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

15. **TREE PRESERVATION ORDER - EVERGREEN, MANOR ROAD, BALDWINS GATE. TPO195**

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

16. **URGENT BUSINESS**

There was no Urgent Business.

COUNCILLOR ANDREW FEAR
Chair

Meeting concluded at 7.20 pm

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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.

This application was reported to Committee on the 9th October when it was resolved that the applicant be allowed a further opportunity for additional information to be provided.

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 10th November.

RECOMMENDATION

Refuse on the following grounds;

- 1. The development, without suitable flood risk mitigation measures and SuDS, would lead to the potential for flooding and would not meet sustainable development objectives is therefore contrary to policy CSP3 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006-2026 and the aims and objectives of the National Planning Policy Framework (2018).**
- 2. In the absence of a secured planning obligation there is not an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of a policy compliant financial contribution towards public open space and education places is not achieved. The proposal would thus be contrary to Policies CSP5 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, saved Policies C4 & IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2018).**

Reason for recommendation

Whilst the principle of new housing development on the site is considered acceptable and the design of the scheme, access and parking arrangements and the impact on residential amenity levels are also considered acceptable, the development has failed to address flood risk concerns and it would be contrary to the NPPF.

Whilst it is considered that there is evidence that the scheme cannot support policy compliant contributions and delivery of the scheme would be desirable, without a secured planning obligation, there is not an appropriate review mechanism to allow for changed financial circumstance.

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

Officers requested a flood risk assessment to be submitted over 6 months ago and suitable information is still awaited. Without suitable information being submitted the Local Planning Authority has no alternative but to refuse the application because adequate time has been allowed for the applicant to address the flood risk matters.

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 and the deferment of the payments would also not alter this conclusion.

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 Policy CSP3 of the CSS also requires all suitable flood mitigation measures to be investigated and where possible incorporated into the development, along with the use of Sustainable Urban Drainage Schemes (SUDS).

7.3 The LLFA advises that whilst a Flood Risk Assessment (FRA) has now been submitted it is recommended that further flood risk investigations and potential mitigation are required. Planning permission should not be granted until this further information is received because any mitigation measures could result in a material change to the design and layout of the proposed development. An acceptable Sustainable Drainage Strategy is also still requested and outstanding.

7.4 As indicated, the application was deferred at the last Planning Committee meeting to allow a further opportunity for additional information to be provided, consulted upon and taken into account by the LPA in its decision. No additional information has been received and your officers now recommend that the application be refused due to the potential flood risk which is contrary to the precautionary approach advised in the NPPF and policy CSP3 of the CSS.

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 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. Further flood risk investigations (additional to the submitted FRA) are required and potential mitigation should be identified. They say that these could be fundamental to the design and layout of the proposed development. They also advise that further information to demonstrate that an acceptable Sustainable Drainage Strategy can be achieved is also requested.

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

Eight 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 and would be overbearing.
- 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

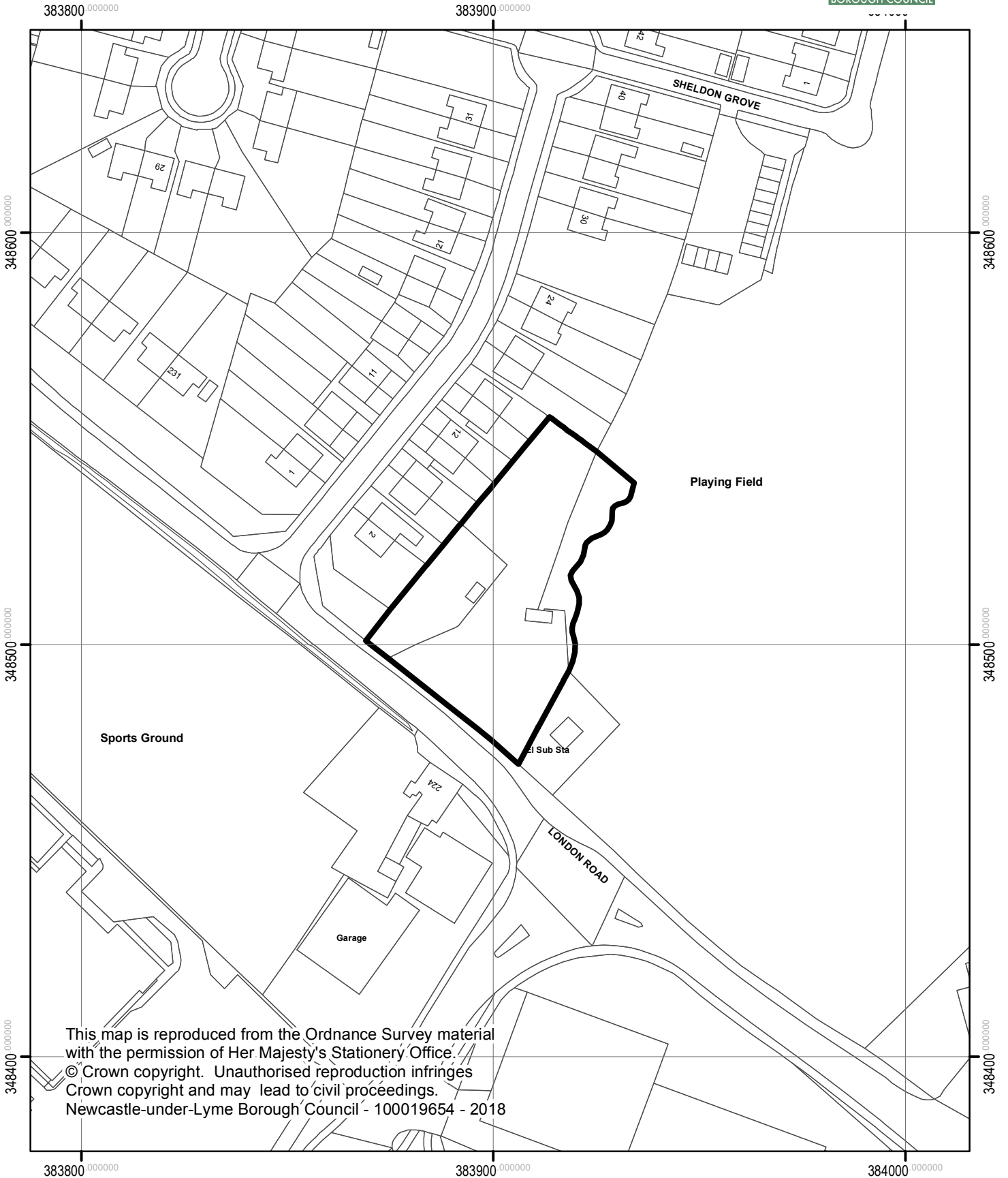
Planning File

Development Plan

Date report prepared

19th October 2018

The Bennett Arms, London Road
Chesterton
ST5 7PS



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LAND OFF WOODROW WAY, ASHLEY
MARCUS MACHINE & TOOLS LIMITED

17/00605/FUL

The above application was for planning permission for the erection of 10 dwellings at land off Woodrow Way, Ashley. The application was refused by the Planning Authority on 6th December 2017 (the decision notice being issued on the 8th December 2017) and an appeal was then lodged against that decision in July of this year.

RECOMMENDATION

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

Reason for Recommendation

The matter was urgent, in the light of the deadline imposed by the Planning Inspectorate, and an immediate decision was required which was then taken following consultation with the Chairman. The basis for the decision is explained in the report below.

KEY ISSUES

As Members may recall, the Planning Committee refused at its meeting on the 6th December 2017 an application (17/00605/FUL) for the erection of 10 dwellings at land off Woodrow Way, Ashley. The decision of the Committee was to refuse the application on the following grounds:

- *The proposed development, because of its isolated location away from a higher level of services, employment and public transport links, would mean that residents would be dependent on the use of private motor vehicles. The development of this greenfield site would not materially enhance or maintain the viability of a rural community in a significant way and is considered to be an unsustainable form of development. Notwithstanding that the Council cannot demonstrate an up to date 5 year plus 20% supply of deliverable housing sites, there is no presumption in favour of the proposal. For these reasons the proposed development is contrary to the requirements and guidance of the National Planning Policy Framework (2012). It would also create a precedent for the consideration of similar proposals around the village envelope of Ashley.*
- *The adverse impacts of the development, namely the reliance on the use of private motor vehicles and the extension of built development into the open countryside would significantly and demonstrably outweigh any benefits of the development when assessed against the policies of the National Planning Policy Framework (2012) taken as a whole and the proposal therefore represents an unsustainable development.*
- *In the absence of a secured planning obligation, the development fails to make an appropriate contribution towards the provision of affordable housing which is required to provide a balanced and well-functioning housing market, as referred to in the Newcastle-under-Lyme Borough Council Affordable Housing Supplementary Planning Document (2009) and the Newcastle-under-Lyme Borough Council Supplementary Planning Document on Development Contributions (2007). The proposal would thus be contrary to Policies CSP6 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2012).*
- *In the absence of a secured planning obligation and having regard to the likely additional pupils arising from the development and the capacity of existing educational provision in the area, the development fails to make an appropriate contribution towards education provision as referred to in the Staffordshire County Council Education Planning Obligations Policy (November 2003, as subsequently updated) and the Newcastle-under-Lyme Borough Council Supplementary Planning Document on Development Contributions (2007). For this reason the proposal would fail to provide a sustainable form of development and would be contrary to Policy CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives*

of the National Planning Policy Framework (2012).

The recommendation to the Committee failed to include a further reason for refusal referring to the lack of an obligation securing the long term maintenance of the public open space on site and therefore the Committee did not, in its decision to refuse the application, refer to a lack of such an obligation being “on the table”.

An appeal was lodged against the Council's decision and in completing and submitting the appeal form in June, the appellant's agent indicated that it was intended to submit a planning obligation with the appeal. In their Statement of Case, in support of their appeal and submitted at the same time, the agents indicated that “in terms of reasons for refusal 3 and 4 that were included in the decision notice as a result of the absence of a mechanism to secure planning obligations, a Section 106 Agreement will be agreed and signed prior to the determination of the appeal which would address these two reasons for refusal”. In late August the appellant's agent submitted a draft Section 106 to the Council with the intention of submitting a certified copy of the obligation to the Planning Inspectorate by an original deadline of 14th September. Subsequently an extension to the 28th September was given.

Notwithstanding the failure by the Council to include a reason for refusal referring to the lack of an obligation securing the long term maintenance of the public open space on site, the draft Section 106 agreement included an obligation relating to that matter.

The authority to enter into a section 106 agreement rests with the Planning Committee (Planning functions part of Appendix 5 to the Constitution). The decision about whether or not to enter into a Section 106 agreement is thus for the Planning Committee to make. Appendix 4 of the Council's Constitution in the section headed Matters of urgency in the General Instructions Section indicates that in the event of a matter which is not delegated by the Officer Scheme of Delegation requiring action where there is no scheduled meeting where the matter can be considered by the appropriate Committee (and where the matter does not make or change policy), ...an Executive Director (having consulted with the Leader or a Cabinet Portfolio holder or the Chair of the appropriate Committee (or in their absence the Vice Chair) shall have delegated authority to take such action, and the action taken be shall be reported to the next available meeting of the.....Committee as appropriate.

Acting on the basis that unless the Planning Inspectorate received a planning obligation by the 28th September no account would be taken of that obligation and being of the view that it was in the public interest for the Council to enter into such an agreement, your Officer consulted with the Chairman on the 19th September - the next Planning Committee then being on the 9th October (i.e. after the 28th September).

The Planning Inspectorate subsequently agreed to extend the period for submission of a completed Section 106 to the 12th October. Although that date was after the Committee meeting date of 9th October, given the considerable amount of time that it takes to prepare a Section 106 agreement with drafts being exchanged between the parties (there being three in this case), leaving a decision until 9th October date (as to whether or not the Borough Council is prepared to be party to such an agreement) would have been unrealistic and moreover potentially viewed by the Planning Inspectorate as ‘unreasonable’.

The urgency of the decision arose in part due to the late submission by the appellant of the draft Section 106 and in part due to Officers being on annual leave and then having competing priorities on their return to work. There were grounds to consider that it would be desirable, from a public interest perspective, for a decision to be made immediately upon this matter.

First of all the appellant had an alternative (a fall back) which they could pursue, if the decision were not made - the preparation and submission by the 12th October to the Planning Inspectorate of a Unilateral Undertaking - this would not tie the recipients of the contributions (the Borough Council and the County Council) to expend the money for any stated purpose and such expenditure would be entirely a matter of their goodwill.

Secondly it was possible that the Inspector might side with the appellants with respect to the reasons for refusal relating to the principle of development, but consider a planning obligation was justified. This would mean that a further application for planning permission would have to be submitted, this

time with a Section 106 obligation, to no public benefit at all (and indeed at a cost to the public purse as such an application could potentially be fee exempt).

Following negotiations with the appellant's solicitor the Borough Council signed the agreement on 10th October and it was submitted to the Planning Inspectorate on 11th October.

The action taken (the authorising of the signing of the agreement) is reported to the Planning Committee as required.

APPENDIX

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

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

Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy IM1: Planning obligations

Other material considerations include:

National Planning Policy Framework (on planning obligations)

National Planning Practice Guidance (on planning obligations, and on appeals)

Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Background Papers

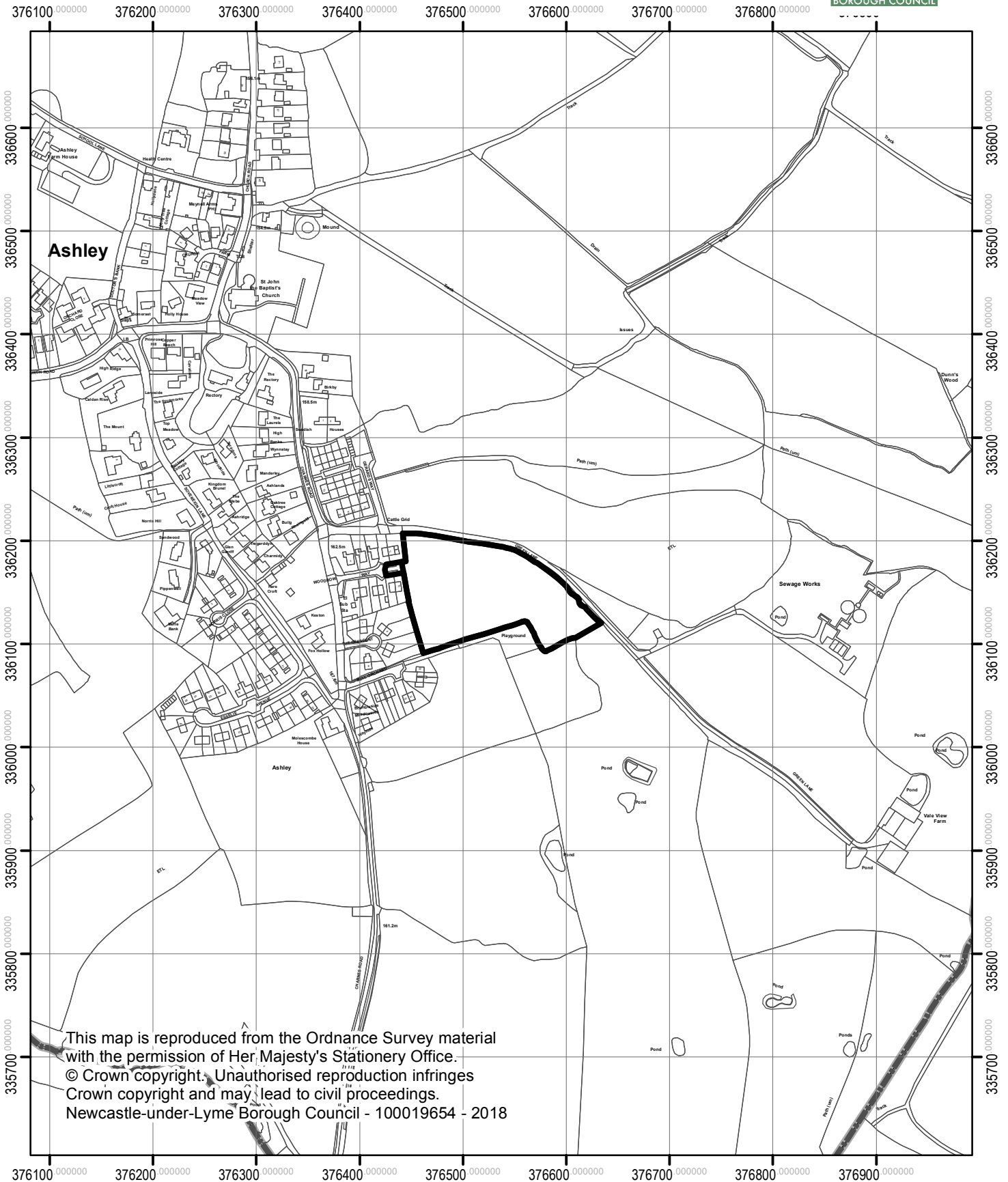
Planning file

Planning documents referred to

Date report prepared

24th October 2018

Land off Woodrow Way



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Newcastle-under-Lyme Borough Council - 100019654 - 2018

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LAND OFF SANDFORD STREET, CHESTERTON
ASH GREEN (HOLDINGS) LTD

18/00559/FUL

The application is for full planning permission for a building comprising 10 no. two bedroom self-contained flats with associated parking.

The site lies within the urban area of Chesterton, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.12 hectares

The wider site was previously occupied by Chesterton Ex-Servicemen's Club. Planning permission was granted in 2017 for 14 dwellings under planning application 17/00417/FUL on part of that wider site. The proposed development will now occupy the remainder of the site. It takes its access off Sandford Street, utilising the same access as the permitted 14 dwellings.

The statutory 8 week determination period for this application expired on the 13th September but the applicant has agreed an extension of time to the statutory determination period to the 9th November.

RECOMMENDATION

A. Subject to the applicant first entering into a Section 106 agreement by 13th December 2018 to secure a review mechanism of the scheme's ability to provide affordable housing in accordance with policy and to make a policy compliant financial contribution of £33,244 (index linked) towards to public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such contributions if found financially viable,

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. The access and access road being completed prior to occupation**
- 6. The existing access permanently closed and footway reinstated**
- 7. Parking and Turning areas retained for designated purpose**
- 8. Cycle Parking**
- 9. Contaminated land treatment**
- 10. Design Measures to Secure Noise Levels**
- 11. Construction hours**

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 affordable housing and an appropriate contribution for off-site public open space which would reflect the infrastructure needs of the development and 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 development is located within a highly sustainable urban area, 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 accepted, following the obtaining of independent financial advice, that the scheme is not viable if policy compliant financial contributions towards affordable housing and public open space are required and whilst it is recommended that 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 is required to secure a review mechanism should substantial commencement not be achieved promptly.

Statement as to how the Local Planning Authority has worked 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

The application seeks full planning permission for a building comprising 10 no. two bedroom self-contained flats with associated parking.

The site lies within the urban area of Chesterton, as indicated on the Local Development Framework Proposals Map.

The wider site was previously occupied by Chesterton Ex-Servicemen's Club but planning permission was granted in 2017 for 14 dwellings under planning application 17/00417/FUL on part of the site. The proposed development will now occupy the remainder of the site which also takes its access off Sandford Street.

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,
- Affordable Housing considerations and
- What financial contributions, if any, are required?

Principle of residential development

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

Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 3,200 dwellings within Newcastle Urban Central (within which the site lies).

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

Furthermore, Policy H1 of the Newcastle Local Plan (NLP) indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within the urban area of Newcastle or Kidsgrove.

The application site is a vacant piece of land within the urban area of Chesterton.

The National Planning Policy Framework (NPPF) advises, at paragraph 11 that decisions should apply a presumption in favour of sustainable development. It goes on to say that 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 NPPF 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.

Footnote 7 indicates that out-of-date as referred to in the second bullet point 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.

The Council, following the adoption of the latest five year housing land supply statement at Planning Committee on 27th September, can now demonstrate a housing land supply of deliverable housing sites, allowing for the appropriate buffer, of 5.45 years. The policies of the Development Plan referred to can therefore be considered to be up to date and can be given due weight given that they are not inconsistent with the NPPF. Such policies are supportive of a dwelling in this location.

On the basis of all of the above, it is considered that the principle of residential development in this location should be supported.

Design and 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.

Paragraph 127 of the revised framework lists 6 criteria, 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 adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

The application site is within the urban area of Chesterton. The site is within a mixed area with varying styles of buildings and uses.

As discussed the site was previously occupied by a Workingmen's club but has been cleared for a number of years. Part of the site contains a development of 14 semi-detached houses which are nearing completion. The proposed development would sit in front of these newly constructing dwellings, directly fronting onto Sandford Street.

The proposal involves a two storey building which has an 'L' shaped footprint and would have a similar appearance to other buildings in the immediate locality. Therefore, whilst the proposed building has simple design it would fit comfortably within the street scene.

Subject to conditions that secure appropriate facing materials and boundary treatments it is accepted that the design of the proposed scheme would enhance the appearance of this site and the visual amenity of the area and it is considered to be in accordance with policy CSP1 of the CSS and the guidance and requirements of the NPPF.

Car parking and any highway safety implications

Policy T16 of the Local Plan states that development will not be permitted to provide more parking than the maximum levels specified in the Local Plan Table 3.2. The policy goes on to specify that development which provides significantly less parking than the maximum specified standards will not be permitted if this would create or aggravate a local on street parking or traffic problem. Such a policy is however of limited weight as it not in accordance with the Framework. The Framework indicates at paragraph 106 that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport. In a Ministerial Statement of March 2015 the then Secretary of State indicate that the government is keen to ensure that there is adequate parking provision both in new residential developments and around our town centres and high streets.

The site is located within a highly sustainable urban area in close proximity to the services and amenities of Chesterton.

The submitted plans show that 10 off street car parking spaces are proposed which amounts to one space per unit. A covered cycle parking area is also proposed for 10 bicycles. This is less than the a maximum standards set out in Policy T16 of 2 spaces per unit, however in light of national policy and in consideration of that this is a highly sustainable location it is considered that the proposal achieves an acceptable level of car parking.

The access arrangements are also considered acceptable and the Highway Authority has raised no objections subject to conditions.

The proposed development would not lead to significant highway or car parking implications and accords with policy T16 of the local plan and the requirements of the NPPF.

Impact on residential amenity

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

The site is within a mixed area with varying uses in the locality. It is a busy urban area and the Environmental Health Division has requested a condition which secures design measures to protect the future occupiers of the units. They have also requested a construction hours condition to minimise the impact on neighbouring residential properties. Subject to these conditions the proposal is acceptable and in accordance with the NPPF and the Councils SPG.

Affordable Housing considerations

Policy CSP6 of the CSS states that for new residential development within urban areas, on sites or parts of sites proposed to, or capable of, accommodating 15 or more dwellings will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided.

As discussed, the wider site was previously occupied by Chesterton Ex-Servicemen's Club but planning permission was granted in 2017 for 14 dwellings under planning application 17/00417/FUL. The proposed development will now occupy the remainder of the site which also takes its access off Sandford Street.

There was no requirement for an affordable housing contribution as part of the previous application granted under 17/00417/FUL because it fell below the 15 dwelling threshold for seeking such a contribution. However, cumulatively the two sites now result in 24 new dwellings and as such the local policy requirement for 25% affordable housing to be provided on-site is triggered. This would amount to 6 affordable units.

On this basis it is considered that the development should be seeking policy compliant affordable housing of 6 units in order to make the development acceptable and in accordance with policy CSP6 of the CSS and the guidance and requirements of the NPPF.

What financial contributions, if any, are required?

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.

As discussed, the site forms part of a wider site that was previously occupied by Chesterton Ex-Servicemen's Club but planning permission was granted in 2017 for 14 dwellings under planning application 17/00417/FUL. The proposed development will now occupy the remainder of the site which also takes its access off Sandford Street. The two sites are under the same ownership and should be considered as one.

There was no requirement for an affordable housing contribution as part of the previous application granted under 17/00417/FUL because it fell below the 15 dwelling threshold for seeking such a contribution. However, cumulatively the two sites result in 24 new dwellings and as such, and as indicated above, there is a local policy requirement for 25% affordable housing to be provided on-site amounting to 6 units.

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. Given that the accommodation proposed will not be occupied by families an adjustment would need to be made to the level of contribution to deduct the element towards play. The OSS details that £512 of the total £4,427 capital element is for play areas and therefore reducing the required sum by that amount as well as a proportionate amount for the maintenance element which equates to £134, the reduced amount would be £4,933 for each of the ten additional units proposed which amounts to £49,330

The sum, it is proposed would be applied to upgrade playground equipment at Crackley Play Area, which is a 470m walk away. 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 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 offered no visual merit within the street scene. 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 lack of affordable housing provision and 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.

The applicant has stated 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

towards POS 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 POS contribution is required, even if the payment of such a contribution is deferred. The assessment undertaken by the DV should, however, have also factored in the need for affordable housing but it has not. In consideration that both the 14 dwelling scheme and the 10 unit building now proposed were/are unviable without affordable housing it can be anticipated that the introduction of the requirement to provide affordable housing could not be supported either. In light of this your officer has not sought further advice on this matter from the DVS.

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.

APPENDIX

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

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

Strategic Aim 16: To eliminate poor quality development;

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

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

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

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

Outline planning permission was granted in 2008 under reference 07/00620/OUT for a mixed use development including new clubhouse, dwellings and commercial unit on a wider site including the current one. A subsequent reserved matters application (ref 08/00800/REM) was permitted later in 2008 for the residential development element only which was for 19 dwellings. A material commencement of the development occurred and this permission is still extant.

A further full planning permission was granted in 2017 for part of the site for the erection of 14 dwellings, ref 17/00417/FUL

Views of Consultees

The **Environmental Health Division** raises no objections subject to conditions regarding construction hours, contaminated land and design measures to minimise noise impact on future occupiers.

The **Highways Authority** raises no objections subject to conditions which secure access, the existing access reinstated to footway, parking and turning areas retained at all times and the cycle parking facilities being provided prior to occupation of any of the units

The **Landscape and Development Section** requests a S106 contribution by the developer for capital development/improvement of off-site open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £5,579 per unit. This contribution would be used to upgrade playground equipment at Crackley Play Area which is a 470m walk away improvements to surfacing at Lyme Valley Parkway playground which is directly opposite the site.

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

No letters of representation have been received.

Applicant/agent's submission

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

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00417/FUL>

Background Papers

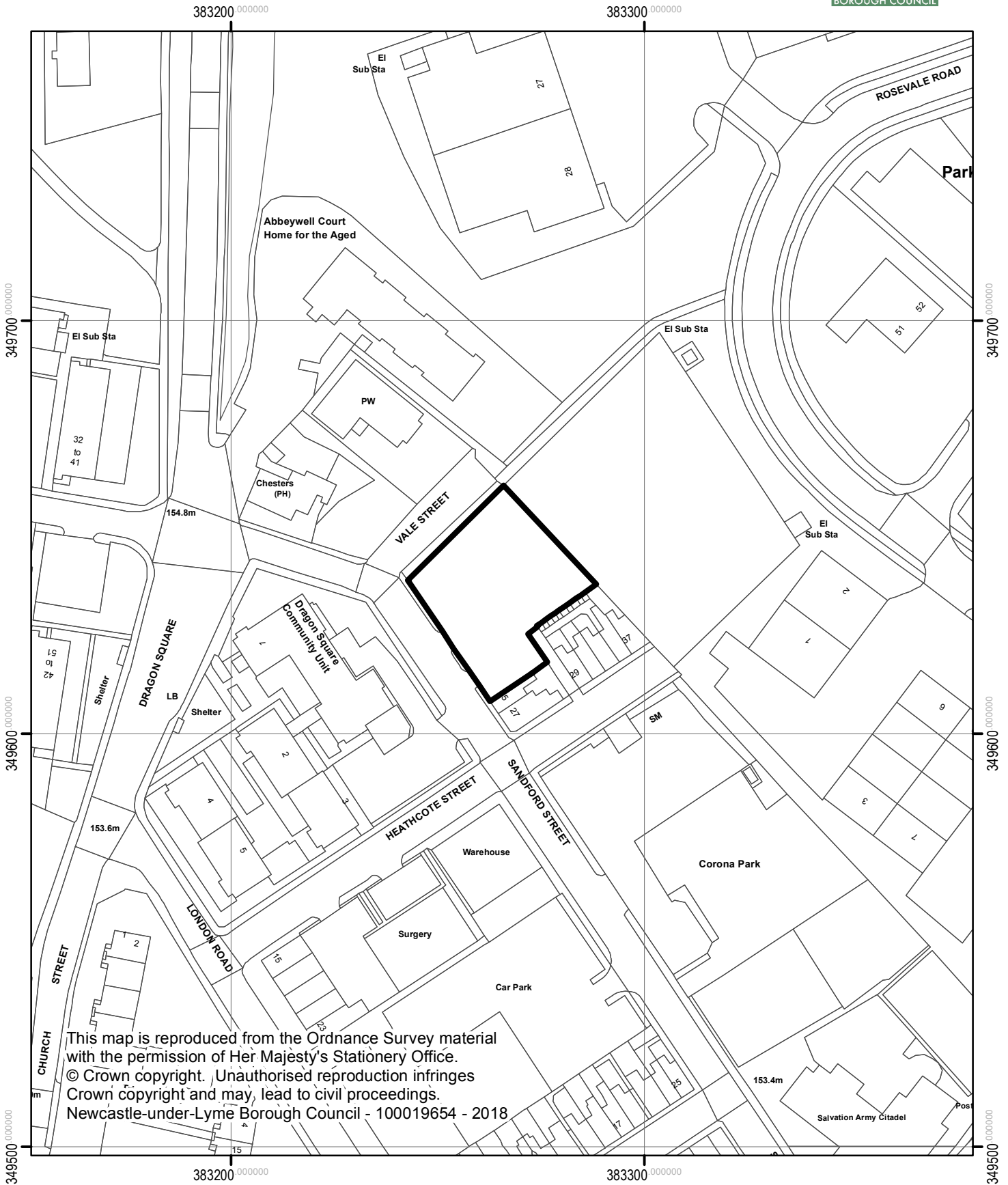
Planning File

Development Plan

Date report prepared

23rd October 2018

Land off Sandford Street
Newcastle-under-Lyme
ST5 7EB



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LAND ADJACENT TO FARCROFT, MANOR ROAD, BALDWIN'S GATE

MR G ADAMS

18/00674/OUT

The application is for outline planning permission for a detached dwelling on Manor Road, Baldwin's Gate. All matters of detail are reserved for subsequent approval. The site, which measures 0.27 hectares, lies some 650 metres due west of the village of Baldwin's Gate.

The application site is located within the open countryside which is designated as an Area of Landscape Maintenance as defined on the Local Development Framework Proposals Map.

The application has been referred to the Committee for decision at the request of two Councillors due to public concerns regarding the location of the site and the scale of the dwelling, and that the application is fundamentally the same as a previous application that was refused.

The 8 week period for the determination of this application expires on 29th October but an extension of time to 9th November has been agreed.

RECOMMENDATION

Refuse for the following reason:

1. The site lies within the open countryside outside the village envelope of Baldwin's Gate and the proposed dwelling would not serve an identified local need. As such, the development of this site is contrary to the objective of directing new houses to sustainable brownfield land within the village envelopes of the key rural service centres and would be contrary to Policies SP1 and ASP6 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy H1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2018).

2. The development would involve a high level of the use of the private car by occupiers of the dwelling and their visitors and therefore represents an unsustainable development that is contrary to the guidance of the National Planning Policy Framework (2018).

Reasons for Recommendation

The proposal is for residential development in a location where such development is contrary to policies within the approved development plan for the area. As the Council is now able to demonstrate a supply of deliverable housing sites of more than 5 years such policies should not be considered to be out of date as a result of the supply position and given the level of conformity to the National Planning Policy Framework they can be given weight in the determination of the application. Due to the location of the site away from a higher level of services, employment and public transport links, there is likely to be a high level of the use of the private car.

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

It is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of the location of this development.

KEY ISSUES

The application is for outline planning permission for a detached dwelling on Manor Road, Baldwin's Gate. All matters of detail are reserved for subsequent approval. The site, which measures 0.27 hectares, lies some 650 metres due west of the village of Baldwin's Gate.

Planning permission has been refused on two occasions for the erection of three dwellings on a larger site (Refs. 13/00678/OUT and 14/00037/OUT). The reasons for refusal of the latter application, which was dismissed at appeal in 2014, were as follows:

- 1. The development of this greenfield site within the open countryside is contrary to specific policies within the National Planning Policy Framework as it is in an isolated location and would not materially enhance or maintain the viability of a rural community and is an unsustainable location for development. Notwithstanding that the Council cannot demonstrate an up to date 5 year plus 20% supply of deliverable housing sites, given the absence of special circumstances as referred to in paragraph 55, there is no presumption in favour of permitting this development. For these reasons the proposed development is contrary to the requirements and guidance of the National Planning Policy Framework (2012).*
- 2. The adverse impacts of the development arising from its isolated location – the dwellings having a greater carbon footprint whilst also harming the intrinsic character of this part of the countryside - significantly and demonstrably outweigh the benefits of the development. The proposal therefore represents an unsustainable development that is contrary to the guidance of the National Planning Policy Framework (2012).*

The application site is located within the open countryside and an Area of Landscape Maintenance as defined on the Local Development Framework Proposals Map.

Although representations have been received expressing concerns that the increase in traffic will cause highway safety issues, it should be noted that the previous applications were not refused for this reason and the Highway Authority has raised no objections to this application. It is not considered that an objection could be sustained on such grounds. Similarly, it is not considered that the application raises any issues of residential amenity or impact on nature conservation interests and therefore, the main issues in the consideration of the application are:

- The acceptability of residential development in this location in consideration of current housing policy and guidance on sustainability
- Impact on the character and appearance of the area
- What financial contributions are required?

The acceptability of residential development in this location in consideration of current housing policy and guidance on sustainability

The application site lies within the Rural Area of the Borough in the open countryside.

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

CSS Policy ASP6 states that in the Rural Area 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 Newcastle Local Plan (NLP) indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within one of the village envelopes.

This site is neither within a village envelope nor would the proposed dwelling serve an identified local need as defined in the CSS. As such its development for residential purposes is not supported by policies of the Development Plan.

The previous proposals were considered in the context of Paragraph 55 of the original NPPF which has since been replaced by Paragraph 79 of the revised NPPF and states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of a number of circumstances apply. In dismissing the previous appeal for this site, the Inspector concluded that in terms of its location, the proposal would represent isolated dwellings in the open countryside. The applicant's agent states that since the determination of the previous appeal, the interpretation of Paragraph 55 (and largely repeated as Paragraph 79 in the revised Framework), and in particular, whether or not a new dwelling is 'isolated' in the true meaning of the word, has been subject to debate in the High Court and the Court of Appeal. The High Court has ruled that the word 'isolated' should be given its '*ordinary, objective meaning of 'far away from other places, buildings or people', rather than the alternative definition of 'remote from services and facilities'*'. The applicant's agent asserts that in light of this ruling, and given that the application site sits between two existing dwellings, it must be concluded that the site is not 'isolated' and that exceptional circumstances in the context of Paragraph 79 of the revised framework do not need to be demonstrated. Your Officer concurs with this view and acknowledges that notwithstanding the view of the Council and the Inspector in relation to the previous proposals for this site, it is no longer appropriate to consider the proposed dwelling as an isolated dwelling given the development surrounding the site. Therefore the special circumstances required to justify isolated dwellings in the countryside are not engaged.

Paragraph 11 of the revised NPPF 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.

At the time of determining the previous applications for this site, the Council was unable to demonstrate a five year housing land supply. The applicant's submission is that this position remains unchanged, and therefore that relevant policies of the adopted development plan are out of date and that the 'tilted balance' of paragraph 11d of the NPPF is engaged meaning that the adverse impacts of the development must '*significantly and demonstrably*' outweigh the benefits in order to justify the refusal of planning permission. However, it is the case that the Council is now able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 5.45 years as at the 1st April 2018. Given this, it is appropriate to consider the proposal in the context of the policies contained within the approved development plan and as stated above, development for residential purposes on this site is not supported by policies of the Development Plan.

The NPPF seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of local communities. In terms of the accessibility of the site, it is some 1600m from Baldwin's Gate and in dismissing the appeal for 3 dwellings on this site, the Inspector accepted that the day to day needs of residents would be serviced by the private motor vehicle for the majority of trips. It was stated that given the limited nature of facilities and services in Baldwin's Gate, it is also likely that occupants would have to travel further afield to meet some needs such as main food shopping, healthcare and secondary school attendance.

The NPPF refers to three objectives of sustainable development – economic, social and environmental. The applicant's agent states that the proposed development would bring with it benefits including a dwelling in an area where there is a significant shortfall in delivery, a contribution to the vitality of Baldwin's Gate by providing additional support to the services and facilities within the village, employment during construction, additional household expenditure in the area, additional Council Tax revenue, biodiversity enhancement through additional native tree and hedgerow planting and on-plot car charging infrastructure to facilitate sustainable transport modes. Whilst some of these benefits are acknowledged, importantly there is no longer a shortfall in housing delivery in the Borough

The likely high level of the use of the private car was a factor which weighed against the previous proposals for this site and this remains the view of your Officer now.

In conclusion it is now appropriate to consider the proposal in the context of the policies contained within the approved development plan and in the absence of material considerations of significant weight, the decision should be one of refusal of the development on the grounds that the principle of the development is unacceptable.

Impact on character and appearance of the area

The previous proposals were for three dwellings on a larger site with one dwelling proposed on the road frontage adjacent to Farcroft and two further dwellings proposed behind Farcroft. The current proposal now seeks outline planning permission for just one dwelling on the front part of the site adjacent to Farcroft. All matters of details are reserved for subsequent approval but an illustrative site layout plan accompanies the application.

In relation to the previous proposals, the view was taken that by consolidating what is at present a loose open pattern of development, the development would adversely impact upon the character of this part of the countryside. The Inspector agreed stating as follows:

Manor Road is an open, rural road with middle distance views over rolling countryside to the east and more limited views to the west. The appeal site is on the western side of the road where there are three domestic dwellings in spacious settings, with a loose association. Development of the appeal site would effectively consolidate the existing dwellings with the provision of three more dwellings.

The proposal would bring built development to the green paddocks and result in a tighter formation of 6 houses along this part of the road. Rather than appearing as sporadic development, there would be a more built up appearance. The development would result in further subdivision of the site, boundary planting or enclosures and other domestic paraphernalia. I conclude that development would effectively transform this part of the lane, causing some harm to this quiet rural backwater. The proposal would cause some harm to this quiet rural backwater.

I conclude that the proposal would cause some harm to the character and appearance of this part of the open countryside contrary to LP Policy N19.

The land to the rear of Farcroft would now remain as paddock and contrary to the tighter formation that would have resulted from 3 additional dwellings, it is considered that a development of one property would retain the sporadic character of dwellings on the western side of Manor Road. There would be no harm to any landscape features and on balance it is not considered one additional dwelling would have such an adverse impact on the character and appearance of this part of the open countryside to justify a refusal.

What financial contributions are required?

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

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

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

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

A tariff style contribution is defined as one where the intention is to require a contribution to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The Landscape Development Section has indicated that the contribution in this case would be used for Baldwin's Gate Village Hall play area for a specific purpose so it does not meet the definition in the Guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such contributions in this case.

However, Baldwin's Gate Village Hall play area is approximately 1600m away from the site along roads with no footways and therefore it could not be argued that the occupiers of this dwelling are likely to place additional pressure on such facilities. On this basis it is not considered that it would be lawful to secure an obligation in this case.

APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy ASP6: Rural Area Spatial Policy
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

[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 N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N4: Development and Nature Conservation – Use of Local species
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Consideration
Policy N19: Area of Landscape Maintenance

Other material considerations include:

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

[Planning Practice Guidance](#)

[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)

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

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

[Relevant Planning History](#)

13/00678/OUT Outline planning permission for the erection of three detached dwellings Refused

14/00037/OUT Outline planning application for 3 executive Code level 6 dwellings (resubmission of application number 13/00678/OUT) Refused and dismissed at appeal

18/00683/FUL Demolition of existing house and construction of replacement dwelling Approved

[Views of Consultees](#)

The **Environmental Health Division** has no objections subject to conditions regarding hours of construction, noise and external lighting.

The **Landscape Development Section** raises no objections subject to conditions requiring the submission of a Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan and landscaping scheme. A Section 106 contribution is required for capital development/improvement of off-site open space of £4,427 in addition to £1,152 for 60% of maintenance costs for 10 years. The total contribution of £5,579 would be used for improvements to surfacing at Baldwin's Gate Village Hall play area or another local Parish Council facility.

The **Highway Authority** raises no objections subject to conditions requiring details of access, layout, surfacing materials and location of any gates.

United Utilities states that if the applicant intends to obtain a water supply from United Utilities, it is strongly recommended that they engage with them at the earliest opportunity.

The **County Council as Minerals and Waste Planning Authority** makes no comments on the application.

Whitmore Parish Council objects to the proposal. The site lies outside of the village envelope of Baldwin's Gate and has been correctly recognised to be unsustainable when previous applications were refused. Nothing has changed in the meantime and there is still no immediate access to public transport and no practical pedestrian access between the site and the village with narrow, unlit rural roads and no public footpath.

No comments have been received from **Staffordshire Wildlife Trust** or **Natural England** and as the period for comments has expired, it must be assumed that they have no observations to make upon the application.

Representations

Twelve letters of representation have been received objecting to the application for the following reasons;

- The site is outside the settlement boundary and is contrary to policy relating to the provision of housing
- The development is contrary to the NPPF due to it being greenfield and in an isolated location
- The Council has a 5 year housing land supply and no more homes are needed
- Would set a precedent which could result in ribbon development along Manor Road
- Manor Road is poorly maintained and the increase in traffic will cause highway safety issues
- The highway regularly floods
- Visual harm in what is currently a predominantly agricultural setting
- Creation of a more built up appearance harming the character and appearance of the open countryside
- No immediate access to public transport and no practical pedestrian access between the site and the village with narrow, unlit rural roads and no public footpath.
- Already been a refusal of housing development on this site
- The site is not sustainable being a 15 minute walk from the village
- The development would bring only small economic benefit, no social benefits and would have a detrimental effect on the environment so the proposal would not represent sustainable development

Applicant/agent's submission

The planning application is supported by the requisite application forms and indicative plans, along with a Planning Statement and an Ecological Survey.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00674/OUT>

Background Papers

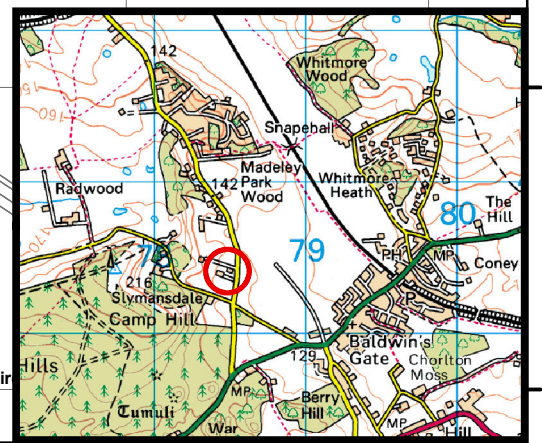
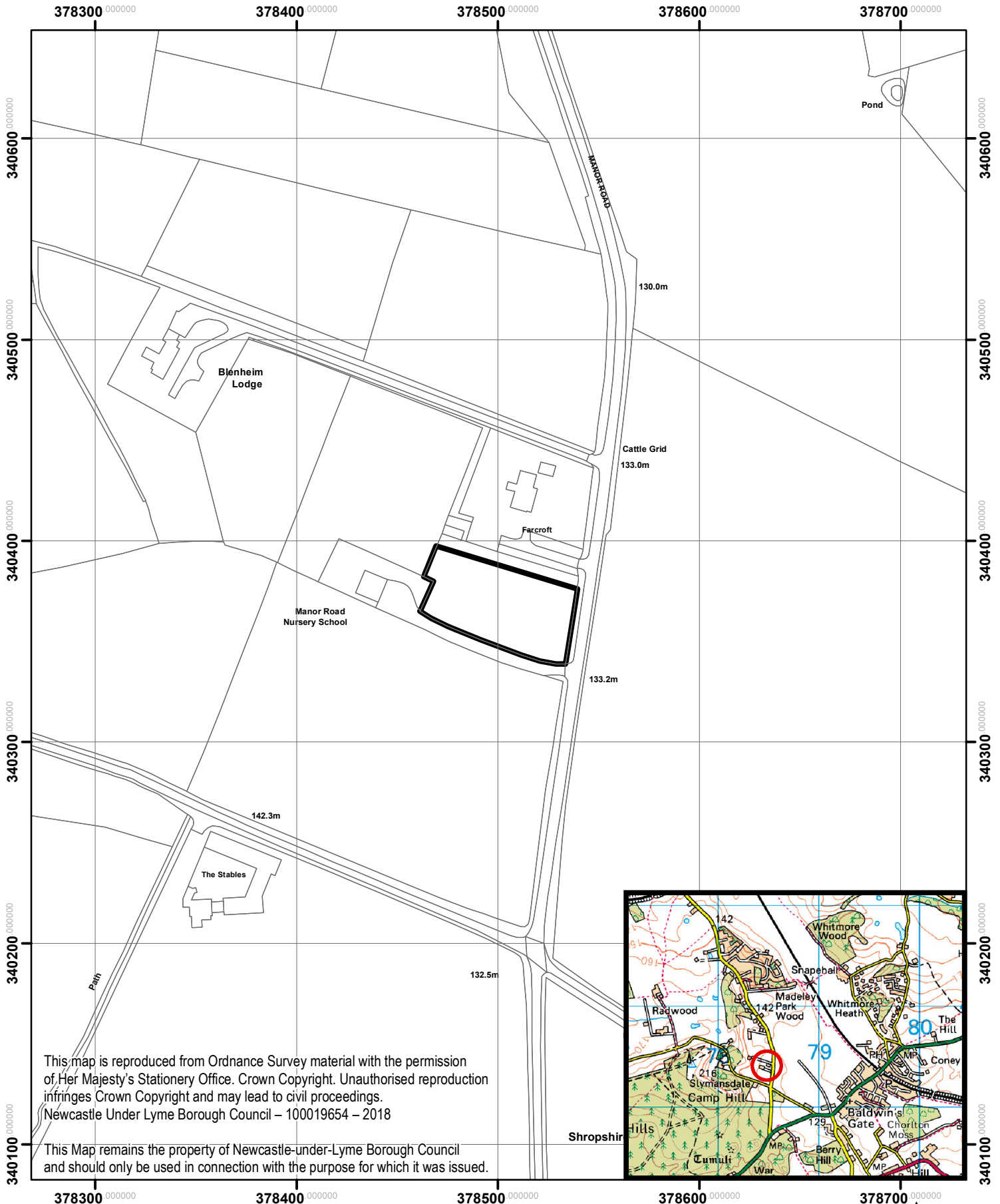
Planning files referred to

Planning Documents referred to

Date report prepared

23rd October 2018

Land Adjacent To Farcroft Manor Road, Baldwins Gate, ST5 5ET.



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LAND AT DODDLESPool, MAIN ROAD, BETLEY
MR. MARK OULTON

18/00299/FUL

The application is for full planning permission for the retention and completion of a partially constructed agricultural track.

The site lies within the North Staffordshire Green Belt, within the Rural Area, and within an Area of Active Landscape Conservation, as indicated on the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expired on the 8th October but the applicant has agreed an extension of the statutory determination period to the 9th November 2018.

RECOMMENDATION

PERMIT subject to conditions relating to the following:

- 1. Works to be completed in strict accordance with the approved plans and submitted information,**
- 2. The recommendations, mitigation measures and enhancements set out in the ecological report shall be carried out in full,**
- 3. Submission and approval of a monitoring programme for the works,**
- 4. The landscaping to be carried out in accordance with the approved plans and any planting lost or damaged within 5 years shall be replaced,**
- 5. No more than a further 6000 tonnes of material to be imported onto the site, unless otherwise agreed,**
- 6. All material associated with the construction and completion of the track shall cease within 24 months from the date of the decision,**
- 7. Only inert waste is to be imported - any non-conforming waste should be removed to an authorised facility,**
- 8. No more than 16 HGV movements shall enter the site per day using the Waybutt Lane access only,**
- 9. Restriction on hours of operation to 8am to 6pm on weekdays and 8am to 1pm at weekends and no construction activity on Sunday or a public holiday,**
- 10. External lighting shall not be installed**
- 11. Submission and approval of methods to reduce mud and debris onto the highway network,**
- 12. No screening or processing of inert waste shall be carried out on site,**
- 13. Submission and approval of dust mitigation measures,**
- 14. No waste to be burned on the site at any time.**

Reason for Recommendation

The engineering operations associated with the formation of the track are considered to represent appropriate development within the Green Belt as they do not harm the openness of the Green Belt or conflict with the purposes of including land within it. The existing and proposed works conserve and enhance the appearance of the landscape. The application has demonstrated that the importation of material is unlikely to result in an adverse impact to the Betley Mere SSSI and subject to a number of suitable conditions the impact of the development on the ecology of the site, the landscape, highway safety and residential amenity will be appropriately mitigated. The development therefore accords with Policies ASP6, CSP1 and CSP4 of the Core Spatial Strategy, Policies S3, N17 and N18 of the Local Plan and the guidance and requirements of the NPPF.

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

Whilst unauthorised works have been carried out the LPA has taken responsive action to limit the impact of the works and encouraged the submission of the application and the provision of additional information during the application process. Subject to conditions the development is considered acceptable and in accordance with local and national planning policy.

KEY ISSUES

The application seeks full planning permission for the retention and completion of a partially constructed track. The works that have already been undertaken are subject to an Enforcement Notice and Stop Notice, served on the landowners in May 2018. An appeal against the Enforcement Notice has been lodged but the appeal is currently being held in abeyance by the Planning Inspectorate until a decision on this planning application is made by the LPA.

The track accesses onto Waybutt Lane, which is within boundary of Cheshire East Council. An application for the part of the track that falls within their administrative area and the access onto Waybutt Lane has already been permitted by Cheshire East Council.

The application is supported by a planning statement, which sets out that the development is for an agricultural track which forms part of the overall plan of improvement for this agricultural holding. The track will be used to manage both the importation of feed and its distribution along the track using what is known as the New Zealand System. This system is endorsed by Natural England, Defra and the Environment Agency.

The site is located within the North Staffordshire Green Belt, the Rural Area and within an Area of Active Landscape Conservation, as indicated on the Local Development Framework Proposals Map.

The main issues for consideration are as follows:

- Is the development appropriate within the Green Belt?
- Is there any conflict with policies on development in the countryside and is the impact of development on the landscape acceptable?
- The Impact on Betley Mere Site of Special Scientific Interest (SSSI)
- The impact on highway safety and residential amenity?
- If inappropriate development in Green Belt terms, do the required very special circumstances exist to justify acceptance of the use?
- Enforcement matters

Is the development appropriate within the Green Belt?

Paragraph 134 of the NPPF indicates that the Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment.

Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 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. Whilst one of the exceptions listed relates to buildings for agriculture and forestry, and although the development is said to be for agricultural purposes, as it is not a building this exception does not apply.

Paragraphs 146 of the NPPF indicates that certain other forms of development are also not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. This includes engineering operations.

The works involved in the formation of the track are considered to represent an engineering operation which has no adverse impact on the openness of the Green Belt and does not conflict with any of the five purposes that the Green Belt serves. Whilst there is no reason to consider that the track is not required for agricultural purposes, based upon the information provided in support of the application, it is not necessary to be satisfied of this to conclude that the development is appropriate in the Green

Belt. On this basis, it is considered that the track would constitute appropriate development in the Green Belt and therefore very special circumstances are not required.

Is there any conflict with policies on development in the countryside and is the impact of development on the landscape acceptable?

The site is within an Area of Active Conservation. Policy N17 of the Local Plan (NLP) states that development should be informed by and be sympathetic to landscape character and quality and should contribute, as appropriate, to the regeneration, restoration, enhancement, maintenance or active conservation of the landscape likely to be affected. NLP Policy N18 states that

“Within these areas the Council will support, subject to other plan policies, proposals that will help to conserve the high quality and distinctive character of the area’s landscape. Development that will harm the quality and character of the landscape will not be permitted. Within these areas particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area.”

The engineering operations that have already been carried and that led to a Stop Notice and Enforcement Notice being served on the landowners involved high volumes of material being imported onto the site. Landscape remodelling has occurred given the topography of the landscape, particularly where the track crosses from Cheshire East to Newcastle, which, as indicated above, has been permitted by them. These works appear to have now been completed with minimal additional works now required to complete the section of the track as it lies within the Borough. The length of track which is proposed, which would finish the trackway, is on reasonably level land.

The application submission indicates that the track follows the natural contours and flow of hedges and trees on the land and on completion the track will be fenced off with stock fencing. It is also intended to plant new hedgerows to gap fill existing depleted hedges. In this respect a detailed landscaping plan and statement have been submitted which show wholesale landscaping being proposed adjacent to the track and this part of the agricultural unit.

The landscape plan as submitted is considered to offer improvements to the landscape and whilst the formation of the track has an impact on the landscape character, the application submission demonstrates that the development can conserve the character and appearance of the landscape and would be in accordance with policy N18 of the local plan.

LDS have requested a tree survey, tree protection information and an Arboricultural Method statement. This information has been requested from the applicant and any information that is submitted will be reported to the committee.

Whilst this information is necessary to make the development acceptable minor amendments to the location of the track could be made to avoid tree roots where necessary and this information could be secured by condition. A further update will be given prior to the meeting.

The development therefore accords with policies N17 and N18 of the local plan and the requirements of the NPPF.

The Impact on Betley Mere Site of Special Scientific Interest (SSSI)

Paragraph 175 of the National Planning Policy Framework (NPPF) sets out that development on land within or outside a Site of Special Scientific Interest (SSSI) which is likely to have an adverse effect on a SSSI should not normally be permitted. An exception should only be made where the benefits of the development clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs. Ramsar sites are afforded the same protection.

Policy CSP4 of the Core Spatial Strategy indicates that the quality and quantity of the plan area’s natural assets will be protected, maintained and enhanced through a number of identified measures.

The application site is within close proximity to Betley Mere Site of Special Scientific Interest (SSSI). The unknown impact from the construction activities already undertaken without planning permission, including the imported material, were the fundamental reasons for the serving of the Stop Notice and Enforcement Notice following advice received from Natural England. The landowners were encouraged to carry out an ecological impact assessment which has now been done and forms part of the application submission.

The impact assessment acknowledges the impact that the development will cause but goes on to state that the proposed mitigation and enhancement measures are likely to significantly increase ecological value and biodiversity in the long term. However, it recognises that regular monitoring is required.

Natural England considers that the proposed development will not have likely significant effects on the Midlands Meres and Mosses (Phase One) Ramsar site and has no objection to the proposals. Their justification for that decision is on the basis of submitted information which depicts the watercourse in the vicinity of the proposed and partially constructed track ultimately flowing into the Mere Gutter some 60-70m downstream of the Ramsar Site's closest boundary. This accords with their records and deals with uncertainty over the potential existence of a direct hydrological link between the construction site and the Ramsar Site. In addition the submitted information in respect of the inert nature of the construction material addresses uncertainty regarding the materials being deposited on the land along the proposed track route.

Natural England advises that their comments on the Ramsar Site apply similarly to the Betley Mere SSSI. As a result it considers that the proposed development will not damage or destroy the interest features for which the site has been notified.

There is no reason, or basis, upon which your Officer could dispute the conclusions of Natural England and their advice is therefore accepted.

Natural England go on to advise that they raise no objections to the application as submitted on the basis of the conditions proposed by the Minerals and Waste Planning Authority regarding the quantity of construction material yet to be delivered to the site and the exact destination of that material. They advise a Construction and Environmental Management Plan is required in the interests of maintaining water quality in the watercourse in the vicinity of the proposed track to avoid unforeseen adverse impacts downstream of the construction site. They also support the biodiversity enhancements subject to the design allowing sufficient 'stand-off' between the proposed new hedgerow plants and the accompanying stock fencing to allow the hedgerow to become established free from browsing by livestock and to allow access for machinery (e.g. side arm mower/flail) when necessary.

On balance, it considered that subject to conditions which ensure acceptable mitigation measures, including the future monitoring of the measures, it is considered that the application has demonstrated that the development would have no significant and long term harmful impact on the identified designated sites. It would therefore be in accordance with policy CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and the guidance and requirements of the NPPF.

The impact on highway safety and residential amenity

Paragraph 5.3 of the applicants transport statement indicates that the vehicle routeing to and from the site will be via the A531 Newcastle Road, with construction vehicles turning into Waybutt Lane and onto the site. This was the route that was taken when the unauthorised works took place, prior to operations ceasing following the serving of the Stop Notice, and there were no reported highway incidents during this time.

The track (once completed) is proposed to be approximately 684 metres long and 3.5 metres wide. Approximately 10,317 tonnes of crushed concrete has already been imported onto the site (referred to in paragraph 4.08 of the Planning Statement). The applicant anticipates that a further 5,000- 6,000 tonnes would be required to complete the track as proposed. The submitted Transport Assessment, however, states;

“The total amount of material still required is 12000 tonnes of crushed inert stone and 6000 tonnes of clean stone and sand. Therefore, based on an HGV with a 20-tonne capacity this would equate to 900 movements in and 900 movements out. I have set out below some options in terms of the traffic impact. Vehicles will be routed via the A531 into the site access on Waybutt lane as previously carried out, prior to work ceasing on the site to secure the necessary planning approvals. It is my understanding that around 6000 tonnes have already been laid to date.”

Therefore there are clear discrepancies between the Planning Statement and Transport Assessment. Notwithstanding these discrepancies it is considered that appropriately worded planning conditions could be imposed on a planning permission that restrict vehicle movements to and from the site in the interests of highway safety as recommended by the Highway Authority (HA). In this respect the HA has advised that the number of HGV's visiting the site shall not exceed sixteen in any one working day. In addition, they recommend a condition to secure measures to prevent the deposition of deleterious material on the public highway during the construction phase. Subject to such conditions there is no basis upon which it could be concluded that the development has an unacceptable impact on highway safety.

The vehicular movements associated with the importation of materials also have the potential to cause an adverse impact on residential amenity. This could be suitably addressed, however, through restrictions on the hours of construction in accordance with the advice of the Environmental Health Division. The HGV vehicles should only use the Waybutt Lane access and not the access off Main Road.

Enforcement matters

Paragraph 58 of the NPPF states that “Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”

The works undertaken to date were uncontrolled and the level of importation of unknown material raised significant concerns that the construction activity could have had indirect, adverse impacts on the designated sites referred to above due to surface water run-off. There was a significant risk that such surface water run-off would adversely affect water quality in local watercourses, for example due to sedimentation and potential pollution.

The uncontrolled nature of the activity also resulted in high volumes of HGV movements along Waybutt Lane, which also caused some detriment to highway safety and impact from noise and general disturbance to the residential amenity levels of neighbouring properties.

The landowner was continuously advised to submit a planning application but one was not submitted.

The Stop Notice and Enforcement Notice that were served in response to such unauthorised development resulted in the works and construction activity being stopped and the planning application was finally submitted.

As indicated above the landowner has appealed against the Enforcement Notice but the Stop Notice remains in effect.

Should the recommendation be accepted the unauthorised works that are the subject of the Enforcement and Stop Notices will retrospectively be granted planning permission subject to conditions and as such the question is raised as to whether such Notices should be withdrawn or amended? To answer this question your Officer is seeking legal advice and it is anticipated that a further update on this matter will be 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 ASP6: Rural area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

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

Policy S3: Development in the Green Belt
Policy N17: Landscape Character – General Considerations
Policy N18: Areas of Active Landscape Conservation

Other Material Considerations

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

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

Relevant Planning History

10/00704/AGR Erection of a building for storage of machinery Deemed Permitted

14/00610/FUL Retention of water reservoir, formation of hardstandings and repairs to the existing track Permit (decision 03.12.2015)

Views of Consultees

Betley, Balterley and Wrinehill Parish Council indicate that the proposed agricultural track appears to be required to service the particular farming system and on that basis raises no objections. They advise that the LPA will also need to be satisfied that the agricultural system referred to is appropriate and relevant to the holding at Doddlespool. There are concerns about the impact of materials brought to the site to form the base of the track and the activity needs to be licensed and controlled by the relevant statutory bodies. Materials being brought on to the site to construct the track should use the Waybutt Lane entrance and not the A531 entrance. Conditions to secure the proposed landscaping and biodiversity enhancements need to be secured by conditions.

The **Landscape Development Section** support the principles shown in the landscaping proposals provided but request further tree survey information due to the proximity of the track to trees.

The **Environmental Health Division** raises no objections subject to conditions which restrict external lighting and construction hours.

The **Highway Authority** initially raised objections but following the submission of a Transport assessment they now have no objections subject to conditions which restrict HGV movements to no more than 16 per day and require the submission and approval of mud and debris reduction proposals.

The **Staffordshire County Council Mineral and Waste Planning Authority** raises no objections subject to the Borough Council being satisfied that amount of material proposed to be deposited is the minimum necessary for the intended/ agreed purpose and that adjacent residents would not be subject to unacceptable adverse impacts. Conditions are recommended as follows;

- Limit the amount of waste imported to the site,
- Limit the duration of waste importation,

- Ensure that only inert waste is imported, and any non-confirming waste should be removed to an authorised facility,
- Limit the number of vehicles entering and leaving the site,
- Limit the maximum number of vehicle movements per day,
- Control the hours of operation,
- Ensure that no mud or deleterious materials is deposited on the public highway,
- Control any lighting associated with the development,
- Ensure that no screening or processing of the inert waste is carried out on site,
- Control the noise associated with the import of the inert waste,
- Control the dust associated with the import of the inert waste,
- Ensure that no waste is burned on the site

The Environment Agency raises no objections.

Natural England raises no objections considering that the proposed development will not have significant adverse impacts on designated sites.

Staffordshire County Council Flood Risk Team (LLFA) raises no objections but advises that the southern part of the track appears to cross an ordinary watercourse/ditch. Land Drainage Consent would be required if works are proposed to the Watercourse (for instance: culverting to allow access across).

Cadent (National Grid) advises that searches have identified that there is apparatus in the vicinity of the site which may be affected by the activities specified. They therefore provide a number of advisory notes/ recommendations prior to works commencing on site.

Representations

Two representations have been received; one from **Paul Farrelly MP** who wishes to object to the planning application. In addition a further representation has been received from **Councillor Gary White** who makes the following objections;

- Materials need to be regulated by the statutory bodies;
- Materials being brought on to the site to construct the track should use the Waybutt Lane;
- A scheme of planting and biodiversity enhancement should be a condition;
- The applicant, in my view does not show regard for their neighbours or indeed the wider community in the way in which they operate their premises and I have received numerous complaints regarding this; and
- Rigorous conditioning and monitoring is necessary;

Applicant/agent's submission

The application is supported by the following documents;

- A Planning Statement with a number of appendices which include a farm track case study,
- Ecological Impact Assessment,
- Transport Assessment,
- Landscaping/ Visual Impact assessment
- Landscaping plan,
- Preliminary Ecological Appraisal,

These documents are available for inspection at the Guildhall and searching under the application reference number 18/00299/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00299/FUL>

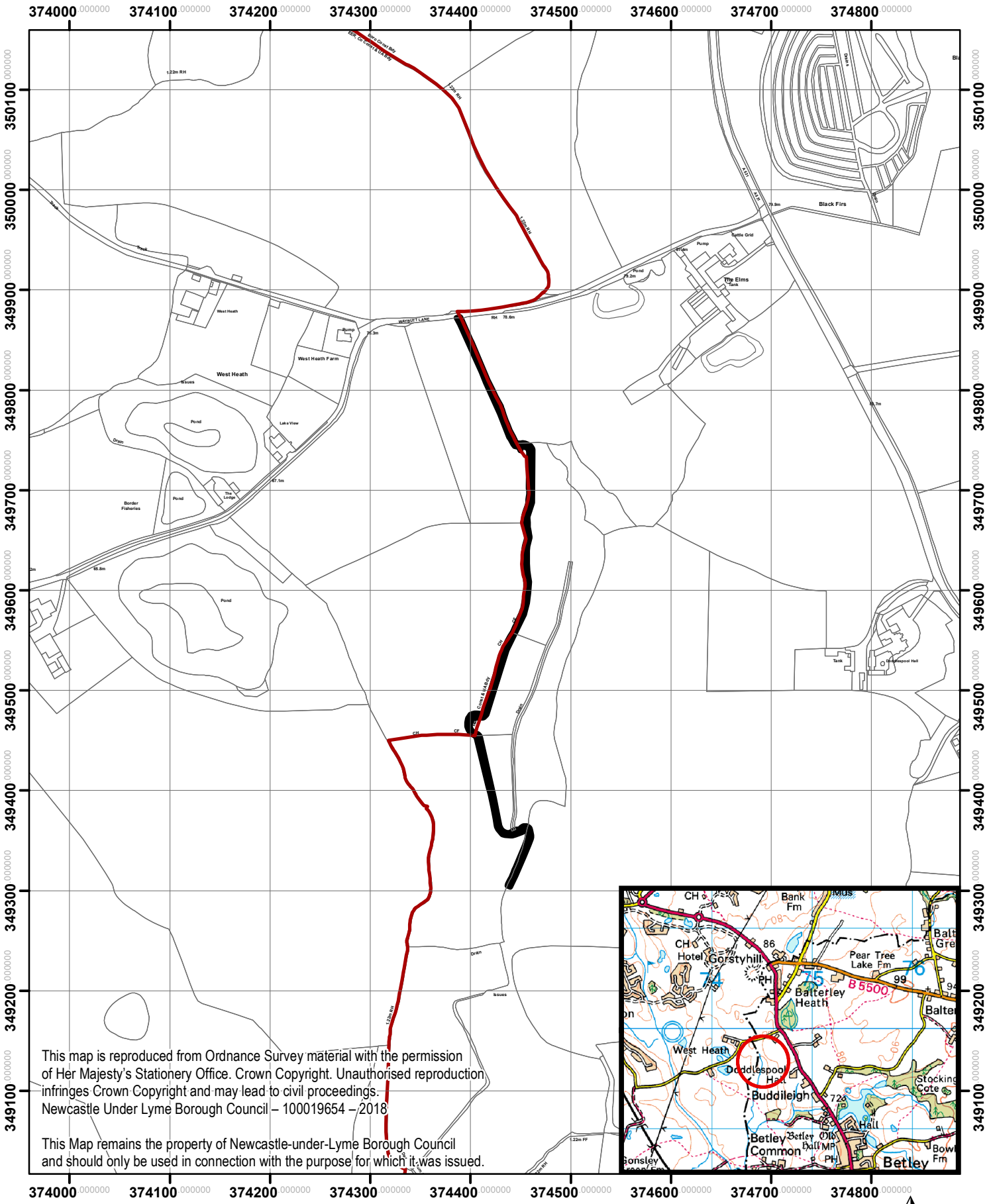
Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

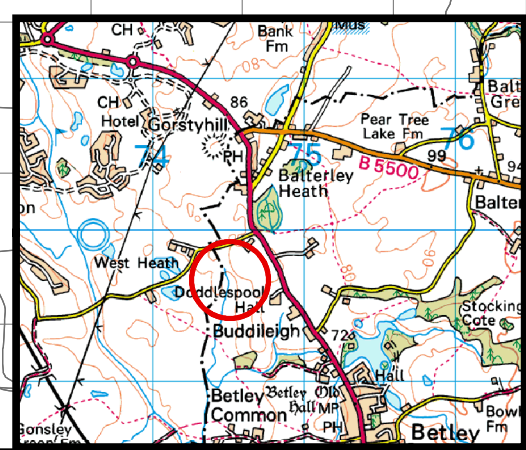
25th October 2018

Land At Doddlespool, Newcastle Road, Balterley, CW2 5QB



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REPORT TO PLANNING COMMITTEE

MID-YEAR DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2018/2019

Purpose of the report

To provide members with a mid-year report on the performance recorded for Development Management between 1st April 2018 and 30th September 2018. Figures for 2016/17 and 2017/18 are also provided for comparison as are targets set within the relevant Planning Service Plan.

Recommendations

(a) That the report be received.

(b) That the Head of Planning with the Development Management Team Leader seeks to maintain performance of the Development Management team where satisfactory and improve the service provided where our level of performance falls significantly below the targets set out in the Planning Service Plan for 2018/19.

(c) That the next 'Development Management Performance Report' be submitted to Committee around June 2019 reporting on performance for the complete year 2018/19.

Reasons for recommendations

To ensure that appropriate monitoring and performance management procedures are in place and that the Council continues with its focus on improving performance, facilitating development and providing good service to all who use the Planning Service.

1. Background:

An extensive set of indicators is collected to monitor the performance of the Development Management service. These indicators have changed over time and officers have sought to ensure that the right things are being measured to enable us to improve performance in every significant area. The range of indicators included reflects the objective of providing a *balanced* end to end development management service, including dealing with pre-application enquiries, breaches of planning control, considering applications, and approving subsequent details and delivering development.

2. Matters for consideration:

There is an Appendix attached to this report:-

APPENDIX 1: PERFORMANCE INDICATORS FOR DEVELOPMENT MANAGEMENT, 2016/17, 2017/18 and 2018/19: Contains quarterly and annual figures for the Performance Indicators applicable during 2018/19 (comparative figures for 2016/17 and 2017/18 are also shown).

This report is a commentary on the local performance indicators that the Council has as set out in detail in Appendix 1. It follows on from a report that was considered by the Planning Committee at its meeting on the 17th July 2018 which reported on the performance achieved in 2017/18, and discussed appropriate targets.

The Council's subsequently Cabinet receives a Quarterly Financial and Performance Management report on a series of performance indicators including those which relate to whether Major and Non-Major planning applications are being determined "in time", and any indicators failing to meet the set targets are reported by exception.

3. The performance achieved:

7 indicators are included in the Planning and Development Service Plan for 2018/19. These are referred to in the commentaries below. It is currently predicted that the target set is likely to be met in five cases.

INDICATOR - Percentage of applications determined within timescales:-

- (1) 72.5% of 'Major' applications¹ determined 'in time'²**
- (2) 77.5% of 'Minor' applications³ determined 'in time'²**
- (3) 85% of 'Other' applications⁴ determined within 8 weeks**
- (4) 85% of 'Non-major' applications⁵ determined 'in time'²**

(see footnotes set out at the end of this report)

The Government does not set 'targets' for the speed of determination of applications. Instead it has a system of designation of poorly performing planning authorities – two of the four current criteria for designation are thresholds relating to the speed of determination of Major and Non-major applications, performance below which designation is likely. Designation as a poorly performing Local Planning Authority would have significant and adverse consequences for the Council.

In November 2016 the Government announced that a threshold on Major decisions made within the statutory determination period, or such extended period as has been agreed in writing with the applicant, of 60% or less for the assessment period between October 2015 and September 2017.

For applications for Non-Major development a threshold of 70% or less of an authority's decisions made within the statutory determination period, or such extended period as has been agreed in writing with the applicant, has been set (measuring the period between October 2015 and September 2017).

The thresholds for designation in 2019 have not yet been announced. The government have stated in general terms that they intend to raise the thresholds for designation year by year.

The period referred to in this report – between April 2018 and September 2018 accordingly falls outside of the October 2015 to September 2017 assessment period, but it is reasonable to anticipate that when the designation thresholds are set for 2019 performance for this period will be taken into consideration.

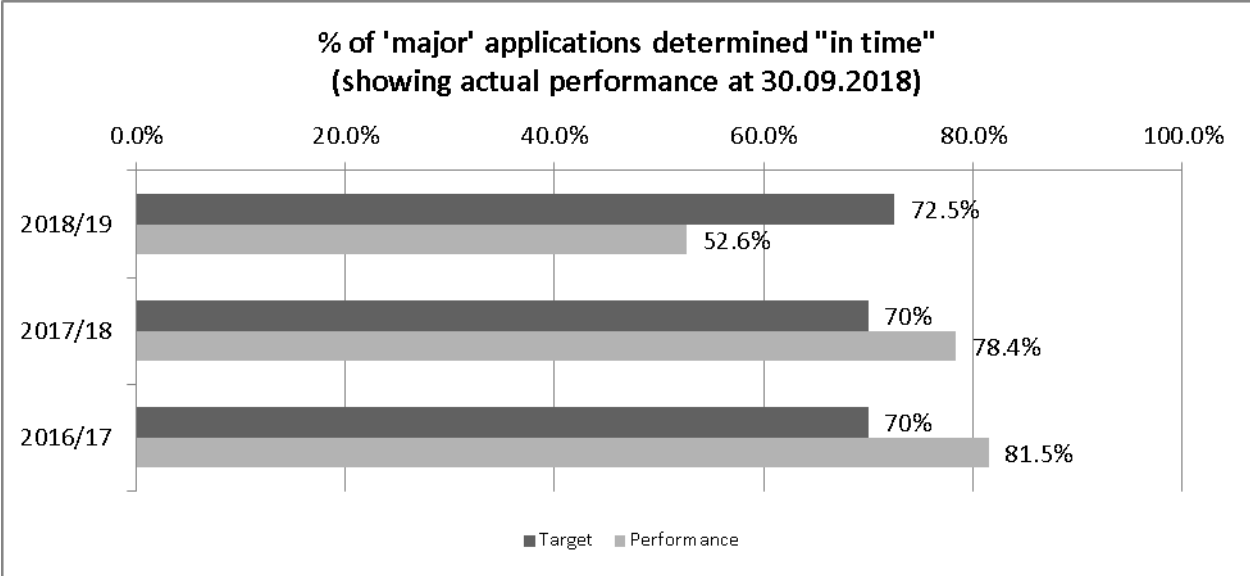
Members may wish to note that with respect to Majors our performance, for the two year period ending March 2018 was 79.7% (against the national designation threshold of 60%), the Council being ranked 275th out of the 339 District Planning Authorities in England. In respect of Non-majors, for the same period, the performance was 85.4%, (against the national designation threshold of 70%) the Council being ranked 237th.

The other designation criteria measure the quality of decision making as demonstrated by appeal performance (again for Majors and Non-Majors) and the Council's performance in this respect was reported to Planning Committee on 14th August 2018 in Annual Appeals Performance Report.

Regardless of any such targets, the Council is required to determine applications in a timely manner and in the case of each application there is a date after which an appeal can be lodged against the Council's failure to determine it. That date can be extended by agreement with an applicant, but delays in the determination of applications are sometimes quoted by various stakeholders as a symptom of a poor planning system, and the applicant's interests are not the only ones that need to be considered as well – undetermined applications and the resultant uncertainty can have a blighting effect on the proposals for adjacent properties. If an Inspector, in any subsequent appeal, was to conclude that there was not a substantive reason to justify delaying the determination of an application, or that the Council had delayed development which should clearly be permitted, then it would be likely that costs would be awarded.

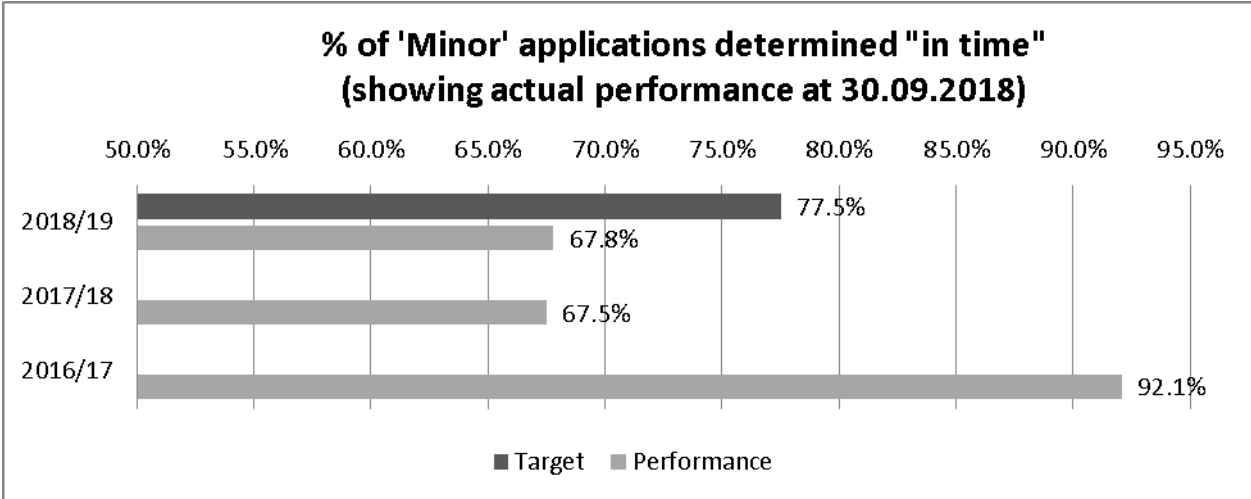
It should be noted that a further challenge to achieving the target with regard to the determination of planning applications was the introduction, on 1st October, of legislation which prevents the use of pre-commencement condition without the written agreement of the applicant. The process of securing agreement for such conditions where they can't be avoided (such as in the case of tree protection measures and contaminated land conditions) is governed by legislation and cumbersome and it will delay the issuing of decisions but it is hoped that applicant will agree to extend the determination date of the application to include time for this process.

(1) In dealing with 'Major' applications during 2017/18 we determined 78.4% "in time"² against the 'local' target of 70% (29 out of 37). Performance for the first half of 2018/19 was 52.6% (10 out of 19) against the new target of 72.5% in time², which is below what was achieved this time last year (72.7%, 16 out of 22). There remains a continued focus by the Service on the obtaining of agreements by applicants to extend the determination period. Taking that into consideration as well as the major applications currently "in hand", and the applications that are expected to be submitted it is still predicted that the target will be met, although it will be challenging.



TARGET FOR 2018/19 LIKELY TO BE ACHIEVED

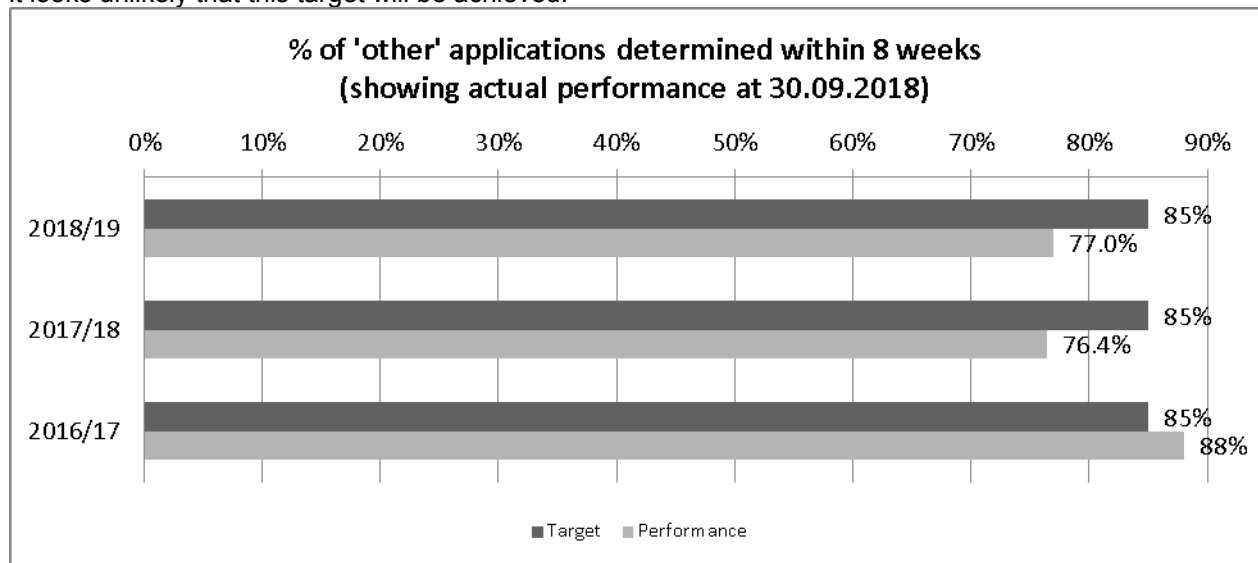
(2) During 2017/18 50.3% of 'Minor' applications³ were determined within 8 weeks against the 'local' target of 70% (99 out of 197). In light of the difficulties that were experienced by the Service, as reported in the Annual Report on Performance, this performance indicator has been amended in the 2018/19 Planning & Development Service Plan from a % of Minor applications³ determined in 8 weeks to a % of such applications determined "in time"² so as to align it more closely with the national designation thresholds. Performance for the first half of 2018/19 is at 67.8% (61 out of 90) against the 'local' target which is now 77.5% in time²



Performance is below the target and as such achieving the target remains exceedingly challenging. Notwithstanding such challenges as the cumulative performance figure for this target has been improving month after month it is, optimistically, predicted that this target will be met.

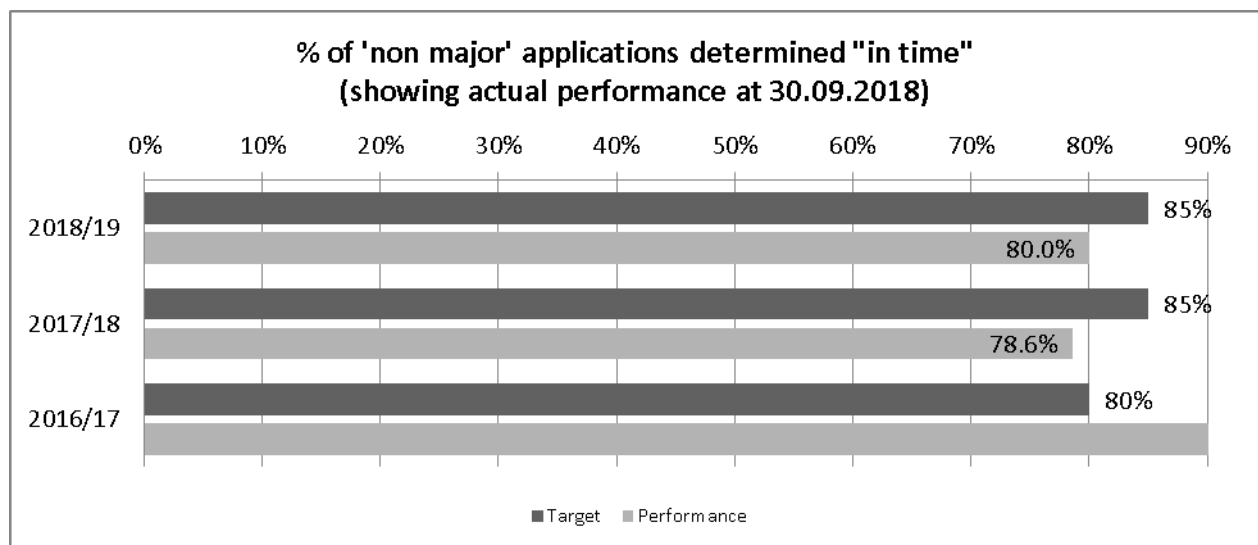
TARGET FOR 2018/19 LIKELY TO BE ACHIEVED

(3) During 2018/19 76.4% of 'Other' applications³ were determined within 8 weeks (307 out of 402). Performance for the first half of 2018/19 was 77% (147 out of 191) compared with the 'local' target of 85%. Given the implications of the pre-commencement regulations and the fixed nature of this measure, it looks unlikely that this target will be achieved.



TARGET FOR 2018/19 UNLIKELY TO BE ACHIEVED

(4) During 2018/19 78.6% of 'non-major' applications⁴ were determined 'in-time' (429 out of 546) compared with the local target of 85%. Performance for the first half of 2018/19 was 80% (110 out of 134) against the same target of 85%. Notwithstanding that we are currently below target the prediction for the year is that the target will be achieved.



TARGET FOR 2018/19 LIKELY TO BE ACHIEVED

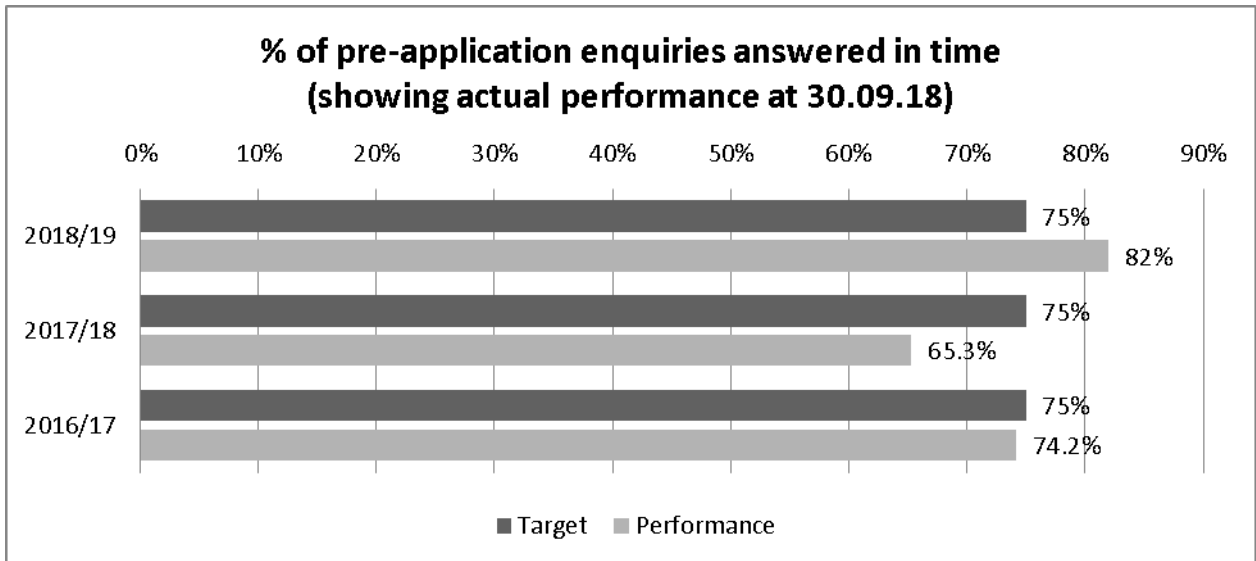
In conclusion the current prediction is that 3 of the four targets relating to the speed of determination of applications are likely to be achieved.

INDICATOR - Percentage of pre-application enquiries answered in time

This indicator allows for more time for enquiries concerning the more significant proposals, and so to some degree reflects the differing demands which various pre-application enquiries involve. For 'Major' pre-application enquiries the target response time is 35 calendar days, for 'Minor' pre-application enquiries the target response time is 21 calendar days, and for 'Other' pre-application enquiries the target

response time is 14 calendar days. The decision as to when an enquiry has been answered can however sometimes be quite subjective.

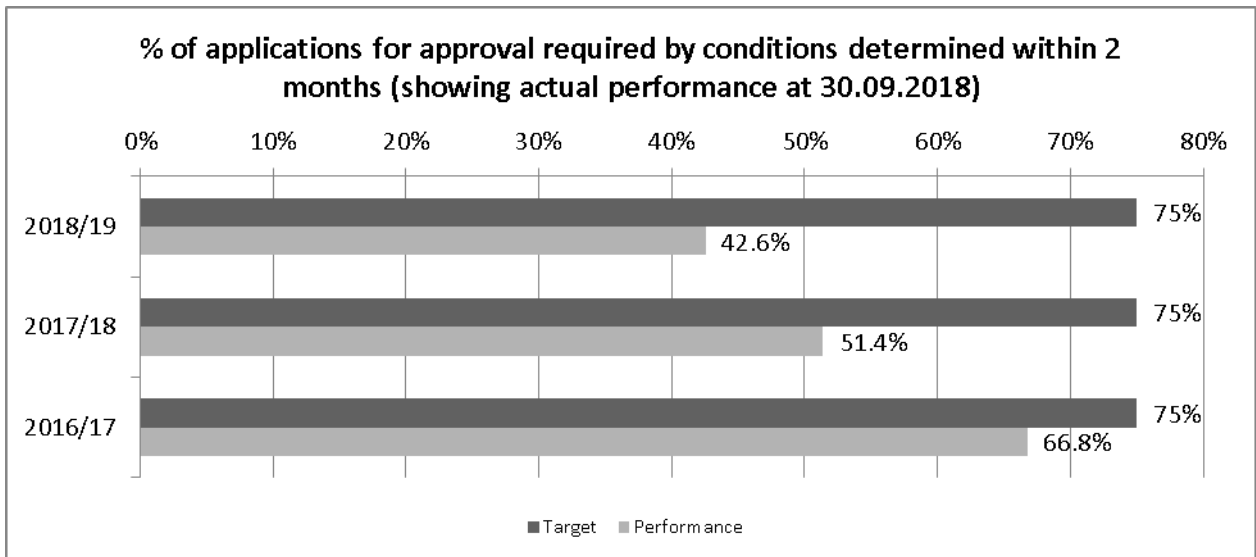
During 2017/18 65.3% of pre-application enquiries were answered 'in time'. Performance for the first half of 2018/19 was 82% (173 out of 211) against the 'local' target of 75%. On the basis of performance for the first half of the year the prediction for the year is that the target will be achieved.



TARGET FOR 2018/19 LIKELY TO BE ACHIEVED

INDICATOR - Percentage of applications for approvals required by conditions determined within 2 months

The figure for 2017/18 was 51.4%. The figure so far this year is 42.6% (52 out of 122). The target for 2018/19 is 75%.



The Government have previously identified that planning conditions are an area of concern as too many overly restrictive and unnecessary conditions are routinely attached to planning permissions, with little regard given to the additional costs and delays that they impose. In addition, delays in discharging conditions require the approval of detail can mean that development is not able to be completed as quickly as it should. Whilst they have produced guidance on the use of planning conditions and introduced a deemed discharge procedure that a developer can invoke if they do not receive a decision in time, the Government remain concerned and have sought views on proposals to prohibit the use of pre-commencement conditions without the written agreement of the applicant, and the potential for a wider

application of primary legislation to prohibit conditions in targeted circumstances. The Government’s response to that consultation was published in December 2016 which concluded that it will be necessary for the local authority to seek the agreement of the developer to pre-commencement conditions. They have also decided to expressly prohibit six conditions through secondary legislation. As indicated above, such changes in legislation came into effect on 1st October.

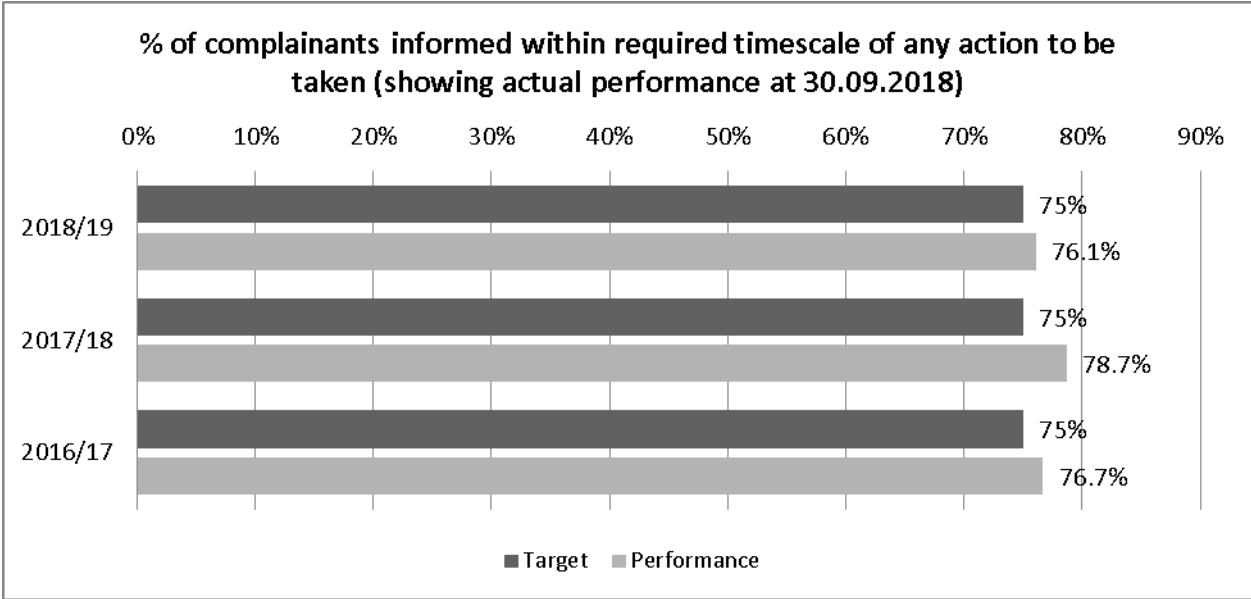
As with the Government, your Officer is keen to ensure that the handling of conditions application does not hinder or delay development, however, whilst continued emphasis has been placed on performance relating to the determination of conditions applications the target is not being achieved. This is concerning and is no doubt a reflection of the resourcing issues that the Section has faced this year, but it also should be recognised that to some extent this performance is a reflection of the inadequacy of the information submitted and the need for further time to be given to enable amendments or additional information to be provided so that the requirements of the conditions are satisfied.

In light of performance to date and the need on occasion to allow additional time for the determination of such applications it is predicted that this target will not be met, given the performance achieved to date.

TARGET FOR 2018/19 UNLIKELY TO BE ACHIEVED

INDICATOR - Percentage of complainants informed within the required timescales of any action to be taken about alleged breaches of planning control.

Performance in 2017/18 was 78.6%. The commendable performance of recent years continues with the performance so far this year being 76.1%. The target for 2018/19 is 75%.



TARGET FOR 2018/19 LIKELY TO BE ACHIEVED

Footnotes

- ¹ ‘Major’ applications are defined as those applications where 10 or more dwellings are to be constructed (or if the number is not given, the site area is more than 0.5 hectares), and, for all other uses, where the floorspace proposed is 1,000 square metres or more or the site area is 1 hectare or more.
- ² ‘In-time’ means determined within an extended period of time beyond the normal 8 week target period that has been agreed, in writing, by the applicant.
- ³ ‘Minor’ applications are those for developments which do not meet the criteria for ‘Major’ development nor the definitions of Change of Use or Householder Development.

⁴ 'Other' applications relate to those for applications for Change of Use, Householder Developments, Advertisements, Listed Building Consents, Conservation Area Consents and various applications for Certificates of Lawfulness, etc.

⁵ 'Non-major' means all 'minor' development and also householder development and development involving a change of use which fall within the 'other' development category.

Date report prepared:

19th October 2018

Source of information/background papers

- **General Development Control Returns PS1 and PS2 for 2016/17 – 2018/19**
- **Planning Services own internal records, produced manually and from its uniForm modules.**

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APPENDIX 1: ' PERFORMANCE' INDICATORS FOR DEVELOPMENT MANAGEMENT 2016/17, 2017/18 and 2018/19.

Indicator	Year	Target for year	<-----Actuals----->					Actual Performance (at 30.09.18)
			April - June	July - Sept	Oct - Dec	Jan - Mar		
% of 'Major' applications determined "in time"	2018/19	72.5%	44.4%	60%				52.6%
	2017/18	70%	85.7%	50%	80%	100%		78.4%
	2016/17	70%	62.5%	85.7%	87.5%	100%		81.5%
Replaced in 2014/15 former indicator of percentage of applications determined within 13 weeks								
% of 'Minor' applications determined "in time"	2018/19	77.5%	58.7%	77.3%				67.8%
	2017/18		68.5%	68%	70.6%	61.9%		67.5%
	2016/17		93.8%	90.6%	92.0%	91.5%		92.1%
Replaced in 2018/19 former indicator of percentage applications determined within 8 weeks								
% of 'other' applications determined within 8 weeks	2018/19	85%	80.2%	73.7%				77.0%
	2017/18	85%	81.5%	79.5%	80%	63.9%		76.4%
	2016/17	85%	90.7%	90.4%	88.2%	81.5%		88%
% of "Non-Major" applications determined "in time"	2018/19	85%	77.9%	82.1%				80.0%
	2017/18	85%	81.9%	78.1%	82%	72.1%		78.6%
	2016/17	80%	94.5%	94.7%	88%	92.2%		92.9%
New target for 2016/17								
% of pre-application enquiries answered in time	2018/19	75%	76.5%	88.5%				82%
	2017/18	75%	63.5%	62.7%	64.4%	68.0%		65.3%
	2016/17	75%	72.6%	76.2%	71.1%	76.5%		74.2%
% of applications for approval required by conditions determined within 2 months	2018/19	75%	36.9%	49.1%				42.6%
	2017/18	75%	54.3%	34.8%	55.3%	57.0%		51.4%
	2016/17	75%	66.3%	65.9%	70.4%	65.9%		66.8%
% of complainants informed within required timescale of any action to be taken	2018/19	75%	76.4%	75.6%				76.1%
	2017/18	75%	79.2%	85.2%	73.2%	75.0%		78.7%
	2016/17	75%	78.1%	75%	83.3%	71.9%		76.7%

Target achieved at 30.09.2018

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121 – 123 HIGH STREET, WOLSTANTON
RIGHT FINANCIAL PLANNING LTD (MR ABAD KHAN)

18/00467/FUL

The application is for the change of use of the first and second floor offices into 4 no. self-contained apartments. The ground floor would remain in Class A2 (financial and professional) use.

The site lies within the urban area of Newcastle-under-Lyme as defined on the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expired on the 17th September 2018, however the applicant has agreed an extension to the determination date until the 9th of November.

RECOMMENDATION

APPROVE: Subject the following conditions

A. Subject to the applicant first entering into a Section 106 agreement by 6th December to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space, if the development is not substantially commenced within 12 months from 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. Secure weatherproof parking for 4 cycles**

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 contributions towards public open space; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The development is located within a sustainable urban area, which results in the development being considered acceptable in principle. The design of the scheme, highways safety and implications in relation to residential amenity are considered acceptable subject to conditions. It is accepted, following the obtaining of independent financial advice, that the scheme is not viable if policy compliant financial contributions towards public open space are queried and whilst it is recommended that these policy requirements are not sought, given the contribution the development makes to housing supply, a Section 106 agreement is required to secure a review mechanism should substantial commencement not be achieved promptly.

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

The Authority has required additional information during the consideration of the planning application in order to address specific concerns, and has arranged for an independent financial review of the viability of the scheme.

Key Issues

The application seeks full planning permission for the conversion of first and second floor office space into 4 no. self-contained apartments.

The building is located in the urban area, in a prime location on Wolstanton High Street. This part of Wolstanton has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

There are no external alterations proposed to the building and so the key issues in the determination of the development are considered to be the following:

- The principle of the conversion of offices to residential units;
- The acceptability of resultant amenity levels
- Parking and the impact on highway safety; and
- Is a financial contribution towards public open space provision necessary?

The principle of the conversion of offices into residential units

The existing building is located within the urban area within Wolstanton District Centre and local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan – sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 1,000 additional dwellings in Newcastle Urban South and East Area, within which the site lies, in the period 2006 – 2026.

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

Furthermore, Policy H1 of the Newcastle Local Plan (NLP) indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within the urban area of Newcastle or Kidsgrove.

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.

The National Planning Policy Framework (NPPF) advises, at paragraph 11 that decisions should apply a presumption in favour of sustainable development. It goes on to say that 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 NPPF 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.

Footnote 7 indicates that out-of-date as referred to in the second bullet point 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.

The Council, following the adoption of the latest five year housing land supply statement at Planning Committee on 27th September, can now demonstrate a housing land supply of deliverable housing sites, allowing for the appropriate buffer, of 5.45 years. The policies of the Development Plan referred can therefore be considered to be up to date and can be given due weight given that they are not inconsistent with the NPPF.

The application involves the conversion of offices into 4 new one bedroom residential units in a sustainable location within the urban area. The site is within easy walking distances of the shops and services available in Wolstanton with regular bus services to destinations around the borough and beyond. It is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and employment opportunities.

The proposed development complies with local and national planning policy guidance. The construction of 4 residential units would contribute to the area's housing supply and the principle of residential development on this site is considered acceptable.

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

The acceptability of resultant amenity levels

Criterion f) within Paragraph 127 of the National Planning Policy Framework states that development should create places that are safe, with a high standard of amenity for existing and future users.

There is no outdoor amenity space provided on site for the occupiers of the new residential units. Given the proximity of the site to public open space at Wolstanton Marsh and Wolstanton Park, it is not considered that the lack of amenity space on site would result in unacceptable living conditions for the occupiers of the development.

The main living areas would be served by the existing windows to provide a source of light and outlook which would provide sufficient levels of residential amenity to future occupiers.

Parking and the impact on highway safety

Policy T16 of the Local Plan states that development will not be permitted to provide more parking than the maximum levels specified in the Local Plan Table 3.2. The policy goes on to specify that development which provides significantly less parking than the maximum specified standards will not be permitted if this would create or aggravate a local on street parking or traffic problem. Such a policy is however of limited weight as it not in accordance with the Framework. The Framework indicates at paragraph 106 that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport. In a Ministerial Statement of March 2015 the then Secretary of State indicate that the government is keen to ensure that there is adequate parking provision both in new residential developments and around our town centres and high streets.

There is no private parking proposed as part of the development. However, the site is in a town centre location and has sufficient access to public transport; therefore the lack of allocated parking would not have a detrimental impact on the surrounding road network.

The building is currently in A2 use with all three floors utilised as office space. In this circumstance Policy T16 of the NLP stipulates that a maximum of 26 parking spaces should be provided in association with the 458 square meters of floor space. The four residential units proposed would substantially reduce the parking demands associated with the building, and so would not contribute to worsening the existing parking situation.

The Highway Authority has also raised no objections to the application, subject to a condition that secures weatherproof cycle parking for 4 cycles. There is opportunity for this cycle parking to be provided at the rear of the building.

Is a financial obligation towards public open spaces provisions necessary

Saved Local Plan policy C4 (part of the approved development plan) does not support the seeking of a contribution for developments of less than 10 units or less than 0.4 ha. 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 was that as good practice for residential development 0.004 ha per dwelling of open space should be provided for the total number of dwellings; and that such open space will be provided in areas of not less than 0.1 ha regardless of development size. It goes on to indicate that a cost model for offsite contributions will need to be agreed based upon a Table 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 contribution of. £4,933 per additional residential unit, in this case the development would create an additional 4 units and so the total contribution sought amounts to £19, 732.

The revised NPPF details 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. The onus is on the applicant to demonstrate whether particular circumstances would justify the need for a viability assessment at the application stage.

The development applied for is well below the Local Plan (LP) 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 Core Spatial Strategy 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 contribution to pooled funding pots intended to fund the provision of general infrastructure in the wider area.

The LDS has indicated that the contribution in this case would be applied to furnishings and groundwork improvements to Wolstanton Park facilities which is approximately 530m away, so whilst the amount is calculated on a “sum per dwelling” basis it does not meet the definition in the guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such style contributions in this case.

The contribution being sought is considered to meet the statutory tests. It is necessary to make the

development acceptable in planning terms and directly related to this residential development (it seeks to address the additional demands upon open space which residential development brings) and is fairly and reasonably related in its scale – the Open Space Strategy setting out a detailed methodology to demonstrate how the capital element of the sum (£4,427) is calculated whilst the maintenance element (£1,152) represents 60% of the costs of 10 years maintenance – a figure in line with that sought by other LPAs, according to the Strategy, per residential unit. Having said that these calculations are based upon the provision of family homes and as such an element of the contribution is for play areas. Given that the accommodation proposed will not be occupied by families an adjustment would need to be made to the level of contribution to deduct the element towards play. The OSS details that £512 of the total £4,427 capital element is for play areas and therefore reducing the required sum by that amount as well as a proportionate amount for the maintenance element which equates to £134, the reduced amount would be £4,933 for each of the four additional units proposed, giving a total of £19,732..

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

It is acknowledged by the Councils Supplementary Planning Document on Developer Contributions highlights that in some circumstances an applicant may believe what is being asked for by the Council will render a scheme unviable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

In such circumstances, for the Council to be persuaded to reduce its requirements, the onus is on the applicant to justify how and why special circumstances apply. In this case the applicant has stated within their submission that the scheme cannot support the requested policy compliant contribution towards POS.

An independent review has been undertaken with regard to viability on the basis that the applicant considers that the POS contribution requirements requested by the Council will render the scheme unviable. The contents of the viability appraisal are considered to comply with the requirements set out in the National Planning Practise Guidance on viability.

The report concludes that the scheme is a very marginal development without any requirements to pay financial contributions and as such would be unable to support the additional cost of the public open space. The development therefore would not be able to support any level of financial contribution, and the scheme would be unviable if the requested POS contribution was to be secured.

The contents of the submitted Viability Appraisal are clear and whilst the development cannot support policy compliant contributions, the scheme would contribute towards housing availability within the Borough and as such should be permitted without the requirement to pay the policy compliant contribution towards public open space. Any permission granted should be subject to a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months from the date of any decision on the application, and then payment of an appropriate contribution, if the scheme were to be found capable of financially supporting these features.

APPENDIX

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

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

Strategic Aim 16: To eliminate poor quality development;

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

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

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

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](#)

None

[View of Consultees](#)

The **Highway Authority** raises no objections to the application subject to appropriate cycle parking facilities being provided prior to the development being first brought into use.

The **Landscape Development Section** raises no objections to the application and recommends a S106 contribution by the developer for capital development/improvement of off-site open space of £3,915 per dwelling in addition to £1,018 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £4,993 per dwelling. This would be used for furnishings and groundworks improvements to Wolstanton Park facilities on Church Lane, 530m from the application site.

Representations

None.

Applicant/Agent's submission

All of the application documents submitted for consideration can be viewed using the following link;
<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00467/FUL>

Background Papers

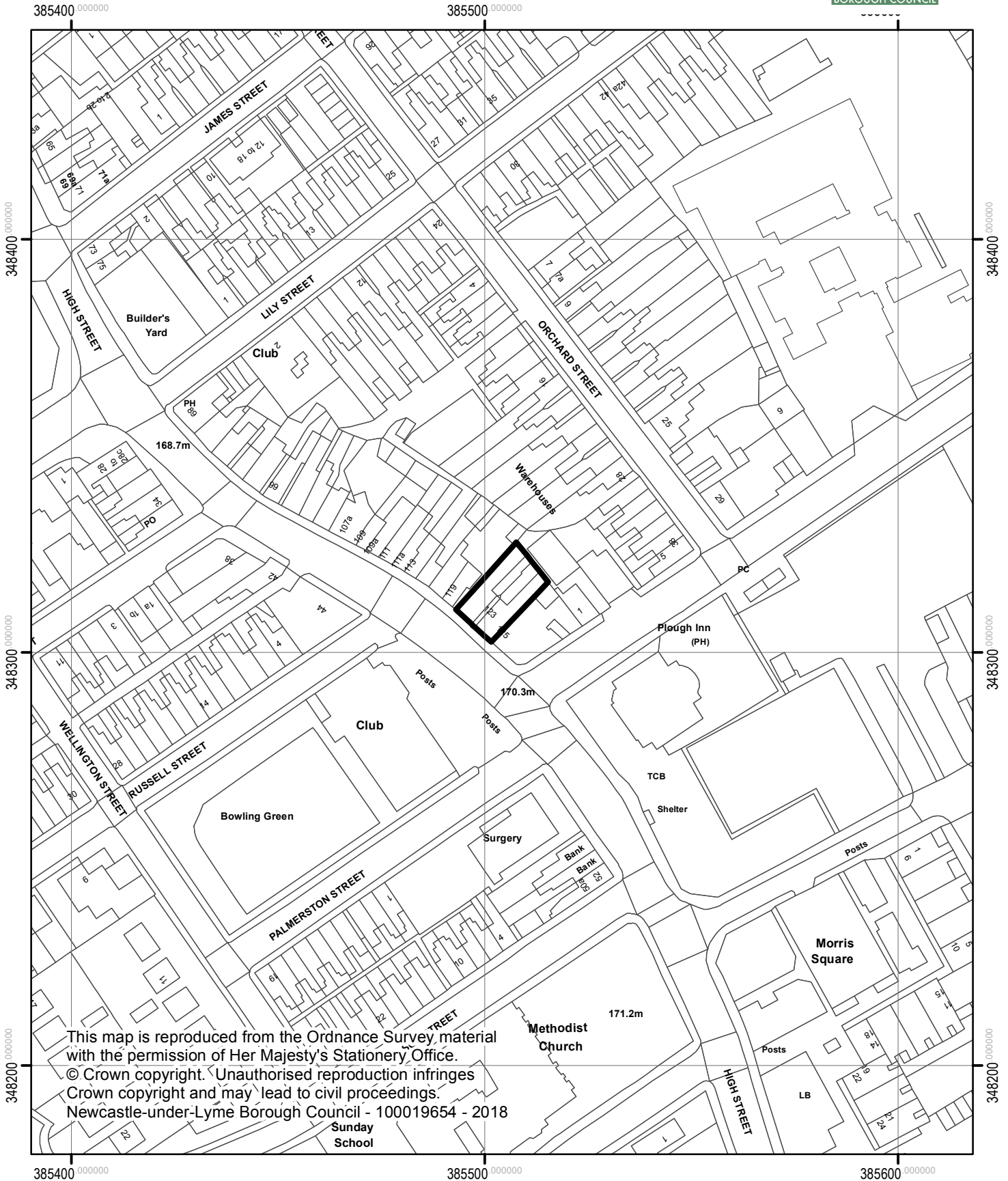
Planning File
Development Plan

Date report prepared

25th October 2018

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121 - 123 High Street
Wolstanton



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Newcastle-under-Lyme Borough Council - 100019654 - 2018

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

Purpose of the Report

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

Recommendations

a) That the report be noted

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

Introduction

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

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

This report covers the period between 14th August 2018 (when the Committee last received a similar report) and the date of the preparation of this report (22nd October 2018).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or subsequent agreed extensions, and extensions have been agreed with respect to some 8 applications.

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

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

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

As from the 1st June the Service has signed up to a Staffordshire wide initiative to promote the use of a standardised Section 106 template agreement, with template schedules, which is being publicised so applicants are clear what documentation is required of them to complete the application process – with the aim of reducing delays and costs for applicants and to simplify the planning process. It is too soon to know what the effect of this initiative will be.

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

Details of the applications involved are provided below:-

(1) Land south of Market Drayton Road 17/00067/DEEM4

This application, for outline planning permission for the erection of up to 65 dwellings with associated open space and landscaping, came before the Planning Committee on 12th September 2017 (at around week 32). The resolution of the Planning Committee included a time limit for the securing, by the 12th November 2017, of a Section 106 agreement providing obligations relating to a management agreement for the long-term maintenance of the open space on the site, a financial contribution of £132,976 towards education places, 25% on site affordable housing, and a financial contribution of £5,579 per dwelling if an equipped play area is not provided on site.

The agreement was not completed by the 12th November 2017 following delays on behalf of the Council as the Local Planning Authority in providing instructions, and accordingly it was considered appropriate by your Officer to agree an extension to the period within which the obligations can be completed by – to the 20th December 2017.

There were further long delays on behalf of the applicant and the County Council (as the education authority) and your Officer agreed to further extend the time for the completion of the Section 106 agreement.

The agreement was eventually completed on the 23rd August 2018 and the decision notice was issued "out of time" on the 24th August.

The decision was issued in this case some 80 weeks after receipt of the application.

(2) Land Bound By Ryecroft, Ryebank, Merrial Street 17/00637/FUL

This application for full planning permission for demolition of existing buildings and construction of a mixed use development of student accommodation, retail and commercial units and associated car parking originally came before the Planning Committee at its meeting on the 7th November 2017 (at around week 15). The resolutions of the Committee inter alia required obligations be entered into securing a financial contributions of; at least £542,797 to public realm improvements with the remainder (being at least £250,000) to be spent on the enhancement of public open space at Brampton Park or Queen Elizabeth Gardens, £2,245 towards travel plan monitoring; Real Time Passenger Information system for bus services; improvements to the cycle route from Newcastle town centre to Keele University; Real Time Town Centre Car Parking Capacity Information System; to review and

provide/amend traffic regulation and Resident Parking Zones in the event that it has been demonstrated (through surveys secured by condition) that the development has resulted in on street parking problems. The resolution included the requirement that the agreement containing these obligations should be completed by the 8th January 2018.

However a further report came back to the Planning Committee on the 2nd February 2018 which set out that it is not legally possible for the Council to enter into an agreement with itself. The Planning Committee then resolved that all parties should enter by 8th March 2018 into an Agreement under Section 111 of the Local Government Act 1972, which requires that a draft S106 Agreement (in the terms as per the resolution of Planning Committee on 7th November), annexed to the S111 Agreement, is entered into once the transfer of the site has taken place.

The 8th March date was not achieved and whilst further delays have occurred your Officer has considered it appropriate to agree further extensions of time within which the Section 111 agreement can be secured, the most recent being to the 25th October.

Some 63 weeks have now passed since receipt of the application.

(3) Land South of Honeywall Lane 17/00514/OUT

This application, for outline planning permission for the erection of up to 35 dwellings came before the Planning Committee on 7th November (at around week 19). The resolution of the Planning Committee included a time limit for the securing, by the 10th December 2017, of planning obligations with respect to the provision of 25% on-site affordable housing and financial contributions towards off-site public open space and primary and secondary school places.

The completion of the Section 106 agreement suffered numerous delays on behalf of the applicant regarding land ownership matters and land registry. These matters were eventually resolved and significant progress was then made in completing the agreement and your Officer agreed to allow a further extension to the deadline for the completion of the agreement to the 13th August 2018.

The agreement was eventually completed on the 10th August 2018 and the decision notice was issued "out of time" on the 24th August.

The decision was issued in this case some 59 weeks after receipt of the application.

(4) 24 Greenock Close, Newcastle-under-Lyme 17/01015/OUT

This application for outline planning permission for the erection of two detached dwellings came before the Planning Committee at its meeting on the 27th March (at around week 14). The resolutions of the Committee inter alia required that an obligation to secure a financial contribution of £5,579 per dwelling towards the maintenance and improvement of public open space. The resolution included the requirement that the agreement should be completed by the 20th April.

The agreement was not completed by the 20th April due to delays on behalf of both the Council and the applicant and your officer has agreed further extensions of time with the latest being to the 5th November.

Significant progress has now been made and it is hoped that the matter will be concluded by the time of the committee meeting and a further update will be able to be given prior to the committee.

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

(5) The Former Orme Centre, Orme Road, Newcastle 18/00090/FUL

This application for the variation of Condition 5 (the condition listing the approved plans) of planning permission 16/00796/OUT came before the Planning Committee at its meeting on the 24th May (at around week 5). The resolutions of the Committee required obligations securing should there be no substantial commencement by a specified date a review of the financial position and if viable payment of financial contribution of £93,408 towards public open space provision, £2,200 travel plan monitoring fee and a financial contribution of £50,000 to fund a Resident Parking Zone. The resolution included the provision that the agreement should be completed by the 29th June.

The applicant has now decided to withdraw the application following a further full planning application (18/00183/FUL) for the conversion of the former Orme Centre/School and the erection of a new building to provide 112 bed student accommodation, which was the subject of a resolution that planning permission can be granted subject to the prior completion of a Section 106 agreement..

(6) 1 Inglewood Drive Porthill 18/00162/FUL

This application for the conversion of a single house into four apartments came before the Planning Committee at its meeting on the 24th May (at around week 12). The resolution of the Committee required an obligation securing, should there be no substantial commencement by a specified date, a review of the financial position and if viable payment of a financial contribution of £14,799 towards public open space provision. The resolution included the provision that the obligation should be completed by a period to be set by the Head of Planning. This was subsequently set as the 29th August.

There were delays on behalf of the Council regarding financial viability but the obligation was eventually completed on the 18th September and the decision notice was issued "out of time" on the 3rd October.

The decision was issued in this case some 31 weeks after receipt of the application.

(7) Land NE of Eccleshall Rd, SE of Pinewood Rd, and NW of Lower Rd, Hookgate 17/01001/FUL

This application for full planning permission for the erection of 22 houses and bungalows came before the Planning Committee at its meeting of the 17th July (at around week 27). The resolution of the Planning Committee included a time limit for the securing, by the 28th August, of planning obligations with respect to the provision of financial contributions of £44,950 towards off-site public open space and £18,550 towards secondary school places, and the review of the financial assessment of the scheme and its ability to make additional contributions, if there has been no substantial commencement within 12 months of the grant of planning permission.

The agreement was not completed by the 28th August due to delays on behalf of both the Council and the applicant. The agreement however was eventually completed on the 26th September, within an agreed extended period, and a decision will be issued once planning conditions have been agreed with the applicant.

Some 41 weeks have now passed since receipt of the application.

(8) Land South of Muckleston Rd 18/00314/FUL

This application for full planning permission for the erection of five residential dwellings came before the Planning Committee at its meeting on the 14th August (at around week 16). The resolutions of the Committee required obligations securing a mechanism that preserves the Council's position in respect of obligations secured prior to the grant of permission 15/00202/OUT.

The resolution included the provision that the agreement should be completed by the 14th September.

An agreement has been in circulation for a number of weeks and by virtue of the steady progress made your officer, and the existence of the extant outline planning permission, has agreed an extension of time by which the Section 106 should be completed to the 26th October.

Some 25 weeks have now passed since receipt of the application

Date Report prepared

22nd October 2018

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Planning Committee 6th November 2018

QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED

The purpose of this report is to provide details of progress made on those cases where enforcement action has been authorised either by the Planning Committee or under delegated powers. Members should note that many breaches of planning control are resolved without recourse to the taking of formal enforcement action.

The last report was brought to the Planning Committee at its meeting on the 17th July 2018. 3 cases are reported upon. Details of all the cases, the progress made within the last Quarter, and the targets for the next Quarter are contained within the attached Appendix.

A report on one of the open cases contains information that is considered to be exempt by reason of the provisions of paragraph 6 of Schedule 12A of the Local Government Act 1972, as amended, and is therefore provided separately.

RECOMMENDATION

That the information be received.

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Residential Development on site of the Former Silverdale Colliery</p> <p>Non-compliance with condition B8 of outline planning permission 06/00337/OUT which requires the provision of 2 Locally Equipped Areas for Play (LEAPs) and 1 Neighbourhood Equipped Area for Play (NEAP) as integral parts of the development</p>	25.04.17	<p>Last year Planning Committee refused an application to vary condition B8 of outline planning permission for residential development on the site of the former Silverdale Colliery. In addition Committee resolved that Legal Services be authorised to issue enforcement or any other notice and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure, within six months, the provision of a second Locally Equipped Area for Play as required by condition B8 of planning permission 06/0337/OUT and to address any other outstanding issues associated with play provision on this development as your Officer considers appropriate.</p> <p>Details of a revised play area were received which Landscape Development Services advised were acceptable. Information regarding when the play area would be installed was provided and works were undertaken in the first week of October.</p> <p>Consideration was given to the provision of a NEAP (Neighbourhood...) during which it became apparent that there are different views as to what has or has not been approved. The developer's position is that details of the NEAP as provided on site were submitted and approved within the reserved matters application Following consideration of the reasonableness of the Council taking a different line to the developer, the considerable time that has elapsed after the provision of that play area, and the nature of the documentation relating to the permissions in place it was decided, under the delegated authority provided by the resolution of the Planning Committee of the 24th April 2017, that it would not be expedient to take enforcement action in relation to any breach of planning control in relation to the NEAP.</p>	Visit site to confirm that LEAP as installed is in accordance with the agreed details.

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Land at Doddlespool and Elms Farm, Off Waybutt Lane, Betley</p> <p>Importation and deposit of earth, and waste material on land and associated engineering operations to create a trackway.</p>	<p>20.4.15</p>	<p>Material has been imported onto the site and a new access is currently being constructed from Waybutts Lane (with the initial section being within Cheshire East Council's area and which has subsequently been granted planning permission by them).</p> <p>Whilst an application was submitted it was invalid upon receipt. A Temporary Stop Notice (TSN) was served on the owner on 13th February requiring the cessation of the importation and deposit of earth, and waste material on land and the associated operations to create a track. The reason for the action was to prevent adverse harm and effect on Betley Mere Site of Special Scientific Interest (SSSI) and Black Firs and Cranberry Bog SSSI.</p> <p>Subsequently it was decided that it was expedient to serve an Enforcement Notice (EN) and a Stop Notice (SN). The reason for such action is that the unauthorised works are contrary to local and national policy in terms of the unknown impact to the designated SSSIs and also due to the adverse harm to the openness of the Green Belt. Both Notices require the cessation of the unauthorised importation of material onto the site and all activity associated with the engineering works, including the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas.</p> <p>An application for the retention and completion of the track has now been registered as valid. The application is reported to Committee elsewhere on this agenda.</p> <p>A valid appeal has been lodged against the EN and as such it will not take effect. The appeal is currently held in abeyance until the planning application is determined.</p>	<p>If planning permission is granted take appropriate action with regard to the EN and SN following receipt of advice.</p> <p>If planning permission is refused, monitor compliance with the SN. Adhere to appeal timetable.</p>

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Report on Open Enforcement Cases

Purpose of the Report

To inform members of the current situation regarding the enforcement caseload.

Recommendations

- That the report be received
- That a further update be provided alongside the next quarterly monitoring report on cases where enforcement action has been authorised.

Background

In accordance with previous Committee decisions, the format of this report shows existing and previous enforcement cases. The Table included in this report shows the total number of outstanding cases in one format (shown below).

In the last quarter (July to September 2018) a further 52 new cases have been reported, less than the previous quarter (86). The current number of open cases is 275. The number of open cases has decreased in this quarter.

A number of the cases indicated in the Table below have associated pending planning applications that are awaiting determination (8 as at 15 October 2018).

Conclusions

It remains inevitable that some cases in the 'backlog' will remain open for some time because of their complexity.

Progress continues to be made in tackling older cases and there is still a significant body of work being undertaken behind the scenes.

Current Outstanding Enforcement Cases

The Table below shows the current statistics in comparison to the previous Quarter.

Current Enforcement Status

Year	Total	Open	C1	C2	C3	BOC	L	M	H
2018	207	56	1	52	3	-	-	-	-
2017	266	34	1	24	9	-	-	-	-
2016	259	27	1	14	12	-	-	-	-
2015	238	29	1	17	10	1	-	-	-
2014	212	37	-	29	8	-	-	-	-
2013	219	24	5	15	4	-	-	-	-
2012	229	18	7	8	3	-	-	-	-
2011	204	9	2	5	2	-	-	-	-
2010	206	8	2	5	1	-	-	-	-
2009	233	6	-	4	1	-	-	-	1
2008	276	8	-	-	-	-	3	5	-
2007	353	5	-	-	-	-	1	3	1
2006	280	6	-	-	-	-	2	3	1
2005	227	2	-	-	-	-	-	-	2
2004	252	1	-	-	-	-	1	-	-
2003	244	1	-	-	-	-	-	1	-

2002	247	3	-	-	-	-	-	2	1
2001	204	1	-	-	-	-	-	1	-

Open Cases 275
(inc Backlog)

Previous Quarter 297

Note for Table – C1, C2 and C3 are the categories agreed by the Planning Committee at its meeting on 17th February 2009 when it approved the Council’s Planning Enforcement Policy; BOC indicates that the case concerns a Breach of Condition, whilst L, M and H represent Low, Medium and High priorities respectively allocated to the pre-February 2009 cases

Date report prepared

15 October 2018

APPEAL BY MR G EMERY AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE THE GRANT OF PLANNING PERMISSION FOR THE REMOVAL OF CONDITION 4 (REMOVAL OF PERMITTED DEVELOPMENT RIGHTS) OF APPLICATION 16/00485/FUL – REPLACEMENT DWELLING AND ERECTION OF A DETACHED GARAGE AT BROOK FARM, 4, OAKWOOD LANE, ACTON

<u>Application Number</u>	17/00877/FUL
<u>LPA's Decision</u>	Refused by delegated powers on the 3rd January 2018
<u>Appeal Decision</u>	Appeal allowed
<u>Date of Appeal Decision</u>	28th August 2018

The Appeal Decision

The Inspector identified the main issue in the assessment of the appeal as being whether the condition is necessary and reasonable having regard to local and national policy concerning development within the Green Belt.

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

- The initial replacement dwelling was materially larger than the original dwelling, and therefore it represented inappropriate development in the Green Belt. However, the Council considered that very special circumstances could be demonstrated because the overall proposed built form on the site would be less than the existing and consequently there would be a net gain in terms of the openness and visual appearance of the Green Belt.
- The appellant referred to case law concerning the interpretation of the term 'replacement building' and stated that the Council could have assessed the original proposal as not representing inappropriate development within the Green Belt on the basis that it was partial or complete redevelopment of previously developed land.
- The Inspector stated that this was not a matter which he needed to take a view on and that his sole consideration was whether the disputed condition is necessary, reasonable and fully justified.
- Paragraph 55 of the revised Framework states that planning conditions should be kept to a minimum and only be imposed where, amongst other matters, they are necessary and reasonable.
- Paragraph 004 within the Planning Practice Guidance (PPG) sets out the 6 tests for conditions. They must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects. Paragraph 017 says conditions restricting the future use of permitted development rights will rarely pass the test of necessity, and should only be used in exceptional circumstances.
- The Council stated that if permitted development rights were exercised in the future, then the special circumstances it says existed to justify the proposed dwelling would be undermined, leading to a reduction in openness. If the proposed replacement dwelling had not been materially larger than the existing dwelling, then permitted development rights would not have been removed by condition. In any event it stated that the removal of permitted development rights would not result in the loss of the ability to extend the dwelling, but simply ensures that the local planning authority retains control over development which it wouldn't otherwise have.
- The Council has not set out what the potential for further development within the specified classes of the GPDO could amount to and as the appellant has not set out what his intentions would be if the appeal were allowed, any harm caused in terms of loss of openness is largely conjectural.
- The Inspector noted that quite substantial additions over and above the size of the existing replacement dwelling could be constructed, but no evidence had been

provided to demonstrate that permitted development rights are likely to be used to their maximum. Whilst it is possible that a future occupier may seek to cover up to 50% of the curtilage with ancillary buildings, this is unlikely to occur, particularly as the extant permission already allows for the erection of a detached double garage.

- The Inspector noted that the appeal site is well-contained and that Acton contains a number of substantial dwellings in large plots within the Green Belt and that these dwellings have their permitted development rights.
- As Policy S3 of the Local Plan pre-dates the Framework, greater weight was given by the Inspector to the wording of the NPPF.
- The Inspector concluded that there are no exceptional circumstances to justify the removal of permitted development rights and as such condition No. 4 is not necessary or reasonable. As such the appeal should be allowed.

Recommendation

That the appeal decision be noted.

The Maer Conservation Area Appraisal and Management Plan Supplementary Planning Document

Report to Planning Committee 6th November 2018

Purpose of the Report

To inform the Planning Committee of the results of the consultation process on the draft Maer Conservation Area and Management Plan Supplementary Planning Document (SPD) and to consider the SPD prior to its adoption by Cabinet.

Recommendations

- 1) That the Planning Committee agree the draft Maer Conservation Area Appraisal and Management Plan SPD and to the publication of the attached Consultation Statement and the SPD for the required final period of representations; and**
- 2) That, subject to no representations being now received seeking significant changes to the Appraisal and Management Plan SPD, the Planning Committee commend the SPD to Cabinet for adoption**

Reason

The consultation period is now over, the responses have been analysed and suggestions for further amendments to the Conservation Area boundary have been accepted. A period within which further representations can be made is required before the document can be adopted.

1.0 Introduction

- 1.1 The Planning Committee, on 17th July 2018, approved the draft Maer Conservation Area and Management Plan Supplementary Planning Document (SPD) for consultation purposes. The purpose of this report is to inform members of the results of the consultation on the draft SPD, and to enable the Planning Committee to consider the final draft before considered for adoption by Cabinet.

2.0 Background

- 2.1 The SPD seeks to provide additional information to ensure that the Borough's Conservation Areas are safeguarded for the future to supplement the objectives and policies contained in the Local Plan. The SPD redefines the special interest of Maer Conservation Area and identifies issues which threaten these special qualities. The Management Plan provides a framework for future actions including extending the Conservation Area boundary.

3.0 Consultation process and results

- 3.1 The consultation on the draft SPD took place over a six week period from 31st August to 12th October 2018 and further details are set out in the Consultation

Statement attached to this report in Appendix A. This draft is still available to view on the Council's website www.newcastle-staffs.gov.uk/conservation

- 3.2 The steps taken included:-
- A consultation event attended by 2 council officers and Maer Parish Council was held in Maer Parish Hall, on 20th September 2018. A small number of residents and parish councillors attended the event including the owner of Maer Hall the main landowner in the Conservation Area.
 - A press notice was published in the local newspaper
 - A consultation response sheet was provided to encourage representations to be made.
 - Inspection copies of the SPD have been made available
- 3.3 There have been 3 written responses submitted on the draft documents. Any representations have been retained on file and can be viewed on request. The representations support the document and amendment to the Conservation Area boundary that is proposed and suggest further minor extensions which are agreed and set out in the Plan at Appendix B, and support the making of an Article 4 Direction to restrict permitted development rights for boundary walls within the Area as a way of helping to protect the area's special character.
- 3.5 The Conservation Advisory Working Party did not raise any issues with the document at consultation stage. Any further comments it has following its meeting on 5th November will be reported to the Committee.

4.0 Next Steps

- 4.1 Under the Local Planning Regulations, before the SPD can be adopted the Council has to make available both the SPD and the Consultation Statement and allow a further limited period, of not less than 4 weeks, for representations to be made. Only in the event of any further significant representations being raised will the matter be brought back to the Planning Committee for reconsideration. Otherwise the next stage will be the consideration by Cabinet of the SPD's adoption.
- 4.2 Once adopted, the SPD together with an adoption statement will be posted on the Council's Planning Policy website page and made available at a charge in hard copy if requested. Details of the adoption will be sent to those who participated in the consultation process and provided their contact details.
- 4.2 If accepted the boundary will be formally amended and the relevant notifications done in a local newspaper and the London Gazette. The Article 4 Direction will be progressed as set out in the Management Proposals.

5.0 Background Papers

Consultation Draft SPD, copies of representation made on the draft SPD, the SPD Consultation Statement

Date report prepared 10 October 2018

Appendix A

Consultation Statement

Maer Conservation Area Appraisal and Management Plan Supplementary Planning Document (SPD)

Background

The SPD redefines the special interest of Maer Conservation Area and identifies issues which threaten these special qualities. The Management Plan provides a framework for future actions.

Once adopted, the SPD will supplement the objectives and policies contained in the Local Plan.

1. Introduction

- 1.1 Regulation 12 of The Town and Country Planning (Local Planning) (England) Regulations 2012, as amended, states that before a Local Planning Authority adopt a Supplementary Planning Document (SPD) they must prepare a statement setting out: the names of any persons the authority consulted in connection with the preparation of the SPD; a summary of the main issues raised in these consultations and how these have been addressed in the SPD. In addition before the SPD can be adopted the Statement has to be made available, with the Supplementary Planning Document, together with details of the date by which representations on it must be made and the address to which they must be sent.
- 1.2 This Consultation Statement explains the consultation process for the SPD, and aims to demonstrate that the Council undertook sufficient public consultations, using its best endeavours to consult and involve the community in the most effective way possible.

2. The Consultation Process

- 2.1 Information regarding the consultation on the SPD was sent to Historic England, the County Council, Maer and Aston Parish Council, owner of Maer Hall and Parkland, the Council's Conservation Advisory Working Party and local ward members.
- 2.2 A six week consultation programme was carried out on the Supplementary Planning Document from 31st August to 12th October. This draft is still available to view on the Council's website www.newcastle-staffs.gov.uk/conservation

The consultation involved:

- The draft SPD and supporting documents were made available to download from the Council's website both during and after the consultation period.
 - A consultation event held at in Maer parish hall, on 20th September. Posters were sent to the Parish Council for their notice boards. A public notice was published in the local newspaper about the Review and the consultation event.
 - Inspection copies of the SPD were made available.
 - A consultation response sheet was provided to encourage representations
- 2.3 Following the consultation process and the production of this summary statement, representations can be made to the Council for consideration before final approval by the Council and adoption of the documents.

Appendix A

3.0 Summary of the main issues raised and how these have been addressed



- 3.1 The draft SPD has generally been well received.
- 3.2 There have been 3 formal representations made by Historic England the Parish Council and a resident. Two of these are suggesting some other amendments to the boundary. Attendance at the consultation event was average, but was well supported by the Parish Council. There was informal discussion regarding all of the boundary issues and officers agreed to re-consider the boundary to the North east and south west. All attendees supported the proposed Article 4 Direction for the stone boundary walls in the village. Concerns were raised over the size and quantity and speed of farm vehicles travelling through the village which are damaging property and in particular the Grade II* Listed walls at Maer Hall, but this is not a matter that can be addressed within this Appraisal and Management Plan.
- 3.3 Section 4 sets out in summary the main issues raised by the comments. Following the consultation, it is proposed to amend the boundary in two additional places which are set out below. A plan showing the additional changes to the boundary are included at Appendix B. No other changes are proposed.

4.0 Consultation Schedule - Comments Received, Council's Response and Actions

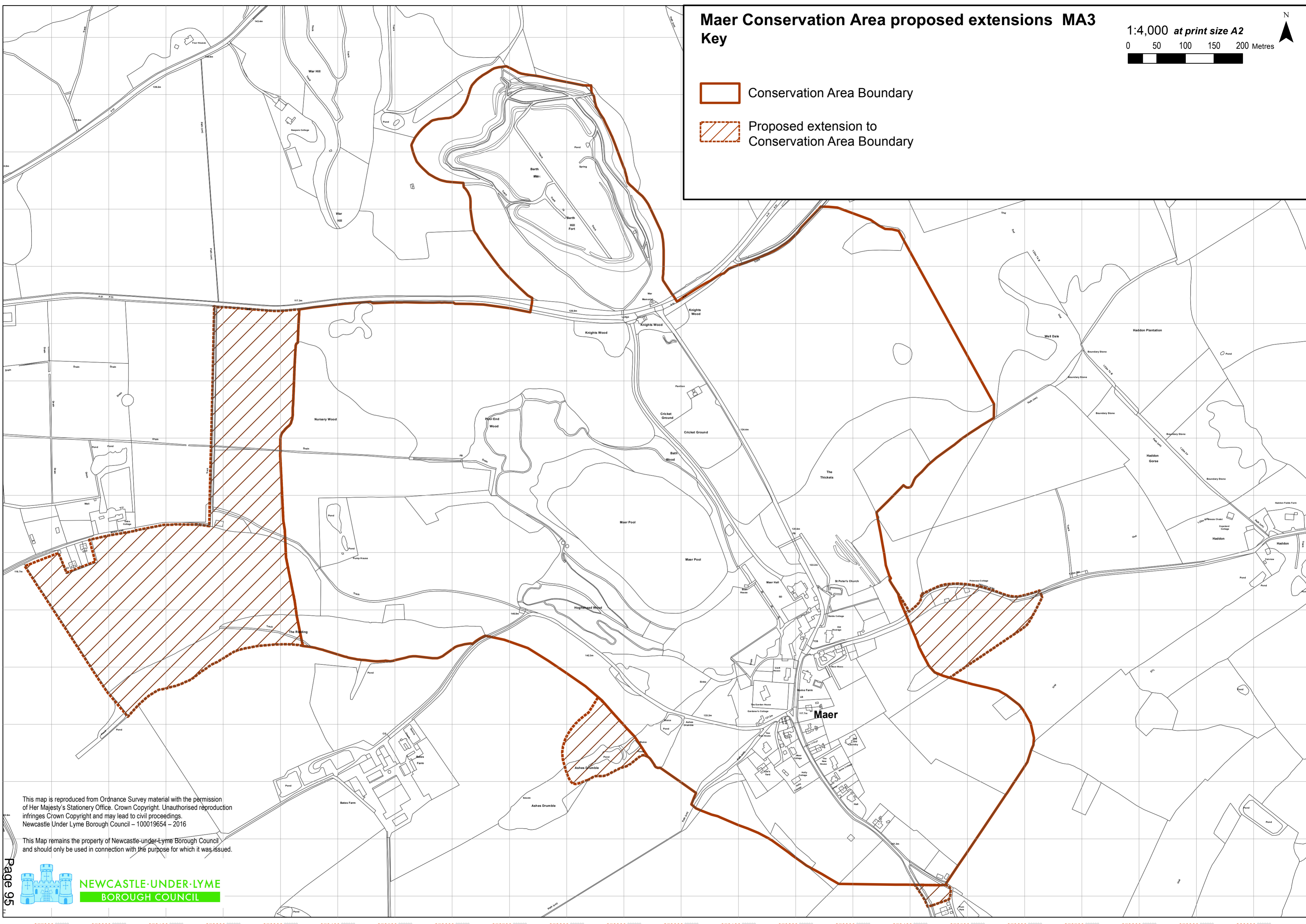
Rep ID	Name	Summary of main issue raised	Response	Changes proposed to draft SPD
1	Historic England (HE)	HE welcomes the review of the Conservation Area and feels that the document and discussions have been productive and are useful for a comprehensive approach to all of the issues surrounding Maer, including Heritage at Risk and Park stewardship issues.	Noted.	None required
2	Maer and Aston Parish Council	The PC would like to extend the Conservation Area (CA) to include the field boundary (excluding Primrose Cottage) to the NE of the current boundary as it runs through the middle of the field and that this would be a more defensible boundary. Also wish to extend the boundary to include Plum Park triangle of green space.	Noted, agreed to and consider these suggestions.	Agreed to include a small area of green space known as Plum Park for clarity as currently the boundary cuts across the middle of this area. In addition agreed to include the field to the NE of the current boundary which includes Primrose Cottage because of the dramatic topography which sets an impressive backdrop to the CA in this location and creates a better defensible boundary and includes the stone walls along Haddon Lane.
3	Resident, Maer	Suggests including Plum Park triangle of land to the south to create a more defensible boundary.	Noted, see above.	Agreed, see above.

Maer Conservation Area proposed extensions MA3

Key

-  Conservation Area Boundary
-  Proposed extension to Conservation Area Boundary

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0 50 100 150 200 Metres



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ARTICLE 4 DIRECTION FOR KEELE CONSERVATION AREA

Purpose of the report

This report proposes the making of an Article 4 Direction, which will remove some permitted development rights from certain properties and require planning approval for certain minor works.

Recommendation

To agree to the making of an Article 4 Direction for Keele Conservation Area on the terms set out in the report.

Reasons

The removal of permitted development rights through an Article 4 Direction would help protect features in the Keele Conservation Area which are key elements to its distinctive special character, and to give effect to the proposals within the agreed Conservation Area Appraisal and Management Plan for Keele Conservation Area.

1.0 Background

- 1.1 The Council resolved in March 2011 to undertake a rolling programme of Conservation Area Appraisals and Management Plans (CAAMPs) for the Conservation Areas in the Borough. A Conservation Area Appraisal and Management Plan have been adopted by the Council for Keele Conservation Area. One of the proposals set out in this Management Plan was that the Borough Council would consider the making of an Article 4 Direction for certain and relevant types of development.
- 1.2 This process has already been carried out in Butterton, Betley, Basford and more recently in Madeley, Audley, Whitmore, Stubbs Walk, The Brampton and Watlands Park following similar Appraisals, and relevant consultation. Article 4 Directions have been made and confirmed in all of these areas.
- 1.3 Consultation was undertaken on the Management Plan for Keele Conservation Area, involving the seeking of the views of local stakeholders, including the Parish Council on the particular issues facing the Conservation Area. Some support for Article 4 Directions was given during this consultation from residents and no objections were received.
- 1.4 The final version of the Appraisal and Management Plan for the Conservation Area was approved by the Borough Council as a Supplementary Planning Document on 6th June 2018.
- 1.5 Article 4 Directions are one of the tools available to local planning authorities to help to respond to the requirement in legislation to preserve and enhance their Conservation Areas. Such Directions are made under Article 4 of the General Permitted Development Order (the GPDO) and they can withdraw selected automatic planning permissions granted by the GPDO. The existence of an Article 4 Direction ensures that the community, through its Local Planning Authority, has an opportunity to consider any

proposed changes by requiring the submission of a planning application to obtain planning permission first for particular types of development. An Article 4 Direction only means that a particular development cannot be carried out under permitted development rights and therefore needs a planning application. It does not mean that such development is not allowed.

1.6 The National Planning Policy Framework (NPPF) states that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Conservation Areas are designated because of their special character and appearance and their architectural and historic interest. The aim of such a designation is to try and preserve and enhance this special character and appearance.

1.7 The Conservation Advisory Working Party has been asked for their views on this proposal and its views will be reported to the committee.

1.8 **National Planning Practice Guidance**

1.9 The Town and Country Planning (General Permitted Development) Order 2015, as amended, makes various forms of development permitted development and thus grants automatic planning permission for them.

1.10 The 2014 *National Planning Practice Guidance* provides easy accessible and up to date information on all aspects of Planning including the making of an Article 4 Direction. The following link sets out the information needed to make such a Direction and answers general questions on procedure and the implications of a Direction.

<http://planningguidance.communities.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/>

2.0 **Removal of Permitted Development Rights**

2.1 Local planning authorities can remove permitted development rights by either a condition on a planning permission or by an Article 4 Direction. The latter are made on a case by case basis and should be based on whether the exercise of permitted development rights, in the case of Conservation Areas, would harm the visual amenity of an area or damage the historic environment. The potential harm that the Direction is intended to address should always be clearly identified. An Article 4 Direction means that a particular development cannot be carried out under permitted development rights and therefore needs a planning application.

2.2 Not all areas have the same permitted development rights. There are a range of exclusions to what development is permitted in protected areas, which is known as Article 2(3) land, which covers Conservation Areas. Article 4 Directions are however a means to bring within the scope of planning control some of the incremental changes which can damage the important characteristics of a Conservation Area. The Guidance states that there should be a particularly strong justification for the withdrawal of permitted development rights relating to

- a wide area (such as the whole of a local authority area)
- agricultural and forestry development – such directions would need to demonstrate that permitted development rights pose a serious threat to areas or landscapes of exceptional beauty

cases where prior approval powers are available to control permitted development

- leisure plots and use
- the installation of microgeneration equipment.

2.3 There are two types of Directions:- non-immediate directions where rights are only withdrawn following consultation of at least 21 days and only come into force on a specified date which is not less than 28 days after the notice is published. Permitted development rights are withdrawn after consideration has been given to any representations and the Direction is formally confirmed by the Local Planning Authority.

2.4 Directions can also be made with immediate effect and are where permitted development rights are withdrawn straight away. This is only where the local planning authority considers that the development to which the Direction relates would pose an immediate threat to local amenity or would be prejudicial to the proper planning of an area. They can only relate to development within the curtilage of dwelling houses, works to fences or walls or other minor operations, some changes of use and temporary buildings and works of demolition (other than by Historic England). To remain in force immediate directions must be confirmed following consultation within 6 months of when it was originally made otherwise it will no longer remain in force. Article 4 Directions cannot be made for development which has already started or completed.

3.0 **Scope of Article 4 Direction**

3.1 The proposals within the Management Plan is limited to a removal of certain permitted development rights indicating that if such a Direction was made planning permission might then be required for

- all extensions whatever the size, including porches, on the front of the building
- changing roof materials and insertion of rooflights on front-facing roofslopes
- replacing windows or doors or other architectural features such as barge boards and finials on the front elevation
- removal or partial demolition of a chimney and painting of an unpainted house,
- the erection, alteration or removal of a wall, gate, or fence at the front of the house can also be controlled as well as demolition (front means a public highway or open space)

3.2 Important features such as windows, doors, roofs, chimneys and boundary treatment all play a part in defining the character of an area. This is relevant in Keele Conservation Area which has a high percentage of historic buildings with original features especially distinctive large chimneys, decorative roof tiles. The removal of front boundary hedges cannot be controlled nor presently can the installation of new boundary walls piers or fences up to a metre in height but with an Article 4 Direction any new walls and fences can be controlled by requiring a planning application to be submitted for consideration and historic walls can be protected.

4.0 **Proposed Article 4 Direction for Keele Conservation Area**

4.1 Officers have considered carefully the buildings in the Conservation Area including those identified as “positive buildings” within the Conservation Area Appraisal and those identified as potential buildings in the documents which might be added to the Council’s Local Register of Buildings of Architectural or Historic Interest, to determine which buildings are the most appropriate for an Article 4 Direction. The Register has been limited to buildings which are either significant to the character and appearance of the Conservation Area, by their quality or are within the key most publicly visible parts of the Area or involved in important views within the Conservation Area. **Schedule A** below sets out the specific buildings for which it is proposed to remove certain permitted

development rights in Keele Conservation Area, which your officers feel is the minimum necessary to achieve the objectives of preserving and enhancing a Conservation Area.

4.2 A plan for the Conservation Area indicating the location of these properties will be displayed at the meeting and attached as Appendix 1.

4.3 It is proposed that the Council should proceed via the use of a non-immediate Direction for Keele which could come into effect following the proposed consultation and after the required consideration of any representations that may be received.

5.0 **Consultation**

5.1 Consultation will be done through the following:

- By production of a leaflet explaining the effect of the Direction and how to make representations and the serving of the required notice on the owner/occupier of every house affected by the Direction.
- Placing an advert in The Sentinel which will set out the properties and classes of development affected, explain the Direction's effects and specify a period of 21 days to make representations to the Local Planning Authority.

6.0 **Compensation**

6.1 Following the making of an Article 4 Direction, the local planning authority may be liable to pay compensation to those whose permitted development rights have been removed if permission is refused (or granted subject to more limiting conditions than the GPDO), where development would normally be permitted. The grounds for compensation are limited to abortive expenditure (for example on the drawing up of plans) or other loss or damage directly relating to the withdrawal of permitted development rights. These rights for compensation are set out in sections 107 and 108 of the Town and Country Planning Act (as amended) and the Town and Country Planning (Compensation) (England) Regulations 2015 set out when time limits apply. Where 12 months' notice is given of withdrawal of the above rights, the issue of potential compensation does not arise at all. Additionally applicants of a permission which is refused by the Council must apply for compensation with 12 months of the date of that refusal (or attachment of conditions which go further than those in the GPDO), and must be applied for within 12 months of the date Direction is effective.

7.0 **Conclusions**

7.1 The Conservation Area Management Plan for the Keele Conservation Area contains a number of recommendations which when successfully implemented will meet the Council's statutory duties and responsibilities under the planning and conservation legislation to preserve and enhance the special architectural or historic interest of this area.

Schedule A

Keele Conservation Area - Article 4 Direction Property Schedule

1. The following properties would be affected by removal of Permitted Development rights relating to extensions; the provision of replacement windows and doors, porches; any alteration to the roof on front roof slopes, or slope fronting a highway; the removal or alteration of chimneys; and demolition or alteration of existing or erection of new boundary treatments

1, 2, 4, 6 and 8 Church Bank
The Old School, The Village
2 Keele Farmhouse and 3 Keele Farmhouse, The Village
4 to 10, 14, 16 to 32 (even) The village
5 & 7 The Village
Smithy House, 4 Highway Lane
1, 2, 3 & 4 Pump Bank

2. The following properties would be affected by removal of Permitted Development rights for boundary treatments only, including the demolition or alteration of existing or erection of new.

2 & 3 The Village
3 Church Bank
Sneyd Arms

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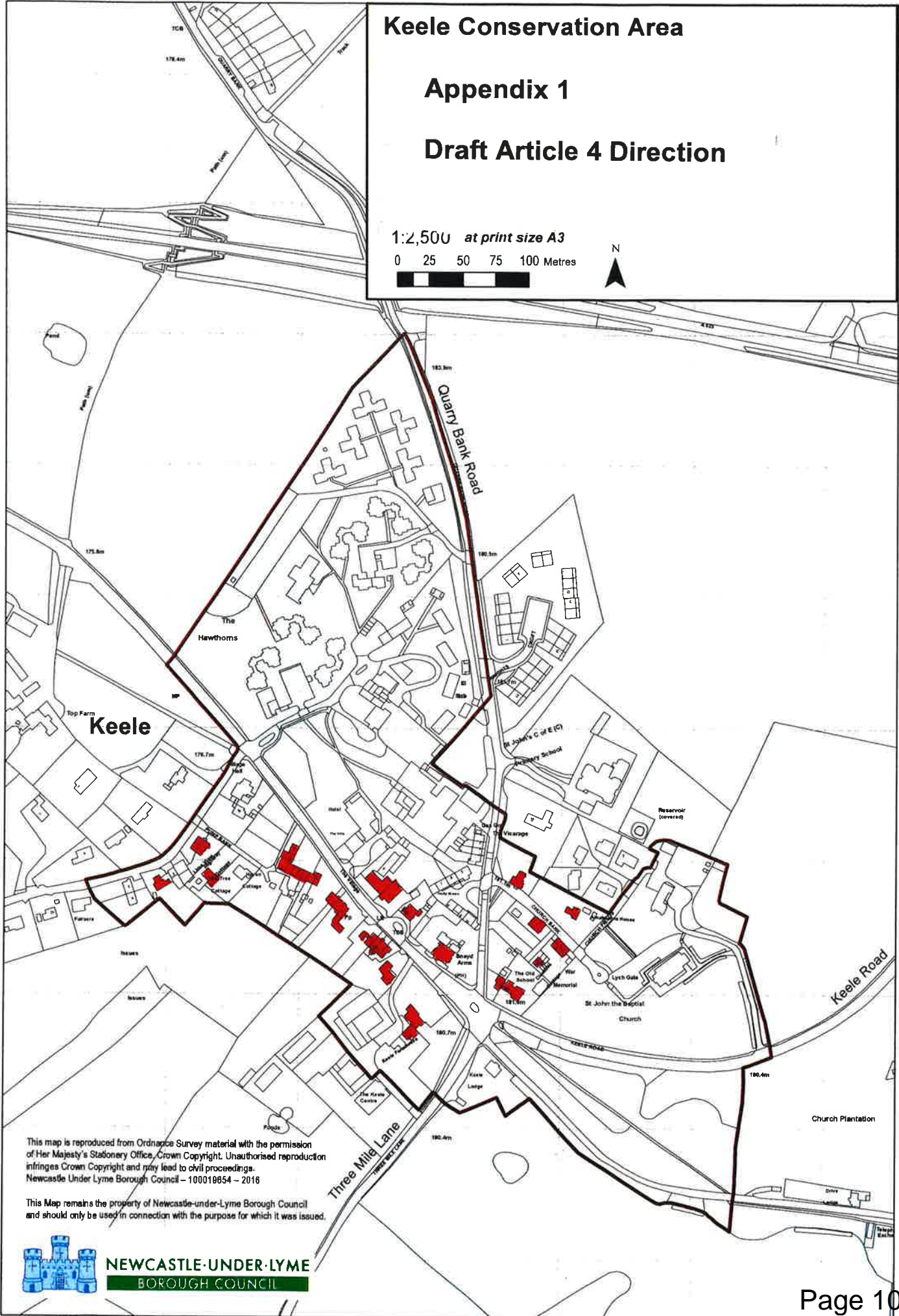
Keele Conservation Area

Appendix 1

Draft Article 4 Direction

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NEWCASTLE-UNDER-LYME
BOROUGH COUNCIL

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Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund for Tower, Kidsgrove (Ref: 18/19003/HBG).

RECOMMENDATION:

That the following grant is approved:-

- 1. £138 is provided towards a structural engineers inspection and report of the tower, subject to the appropriate standard conditions**

Purpose of report

To enable members to consider the application for financial assistance.

The tower is a Grade II Listed Building. It is in a ruinous state and is on the Council's Building at Risk Register. The building is thought to be a former late 18th century windmill (although the listing description was amended from Old Windmill to say Tower) and further research would certainly reveal more about its history. It has dressed stonework and the structure reveals 2 internal fireplaces. The Council acquired the structure from the former owner by gift in 1985.

Following the Buildings at Risk Survey in 2016, the Council's Conservation Officer approached the Facilities Management Section of the Council to see if a survey could be instigated to identify any structural and safety issues the structure may have, to at least consolidate it until more significant repairs, if necessary, could be dealt with. There are numerous vertical cracks within the tower and the stone work at the top of the tower appears vulnerable not least due to the lack of mortar in the joints.

Two competitive quotations have been received from structural engineers to undertake an initial survey of the building to assess what is necessary to ensure the future stability of the structure. It may be necessary for a more thorough survey to be undertaken once the initial investigation has been undertaken but this will be done following the outcome of the first survey. Any repair work can then be costed and quoted for at a later stage.

The total cost of the initial survey is quoted at £690 including VAT. The works are eligible for a grant of up to 20% or up to a maximum of £5,000.

The Conservation Advisory Working Party supports this application and they recommend that Planning Committee accepts the application for financial aid.

Financial Implications

There is sufficient funding to meet the grant applications with £30,000 in the Fund allowing for commitments.

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REPORT TO THE PLANNING COMMITTEE

6th November 2018

SCHEME FOR PUBLIC SPEAKING AT PLANNING COMMITTEE REVIEW OF POLICY REGARDING DISPLAY OF MATERIAL

Purpose of the Report

To enable Members to determine whether or not they wish to revise existing policy concerning the display of material during public speaking, or direct representation, to the Planning Committee

Recommendation

That the existing scheme be amended to allow public speakers, including ward councillors, to refer to material, excluding “presentations”, that has been submitted as part of, or in relation to, the application that is being considered by the Committee; and that this amendment be brought into immediate effect

Reasons

To ensure that the Planning Committee’s procedures remain fit for purpose

1. Background

- 1.1 In July 2008 the Planning Committee agreed to a package of measures entitled “Reforms to Planning Procedures” of which arrangements for public speaking at the Committee, and withdrawal from the Planning Committee of “called-in” application were part of. At the same time the Committee agreed to a guillotine on late representations and the submission of amended plans, and a policy voting on planning applications where a site visit had been held.
- 1.2 The Committee at the same time agreed that the changes should be reviewed by the Planning Committee within a 6 month period.
- 1.3 At its meeting on 30th September 2008 the Committee considered and agreed a requested amendment to the Committee’s protocol on public speaking.
- 1.4 At its meeting on the 21st April 2009 the Committee agreed, having considered a detailed report, that the current procedures for the operation of the Planning Committee be continued.
- 1.5 At its meeting on the 31st March 2015 the Committee undertook a further review of its procedures. With respect to Public Speaking, or direct representation, to the Planning Committee certain amendments to the procedures were mad
- 1.6 Comments have been received about the policy of the Committee that no facilities for the projection of any material will be made available, and the Chair has asked that this item be brought to the Committee.

2. Current procedure

2.1 As members will be aware the current procedure is that ward councillors, a supporter and an objector may make an oral representation to the Committee. Their oral representation is the sum of the representation permitted. No facilities for the projection of any material are made available and no material may be circulated or distributed to members of the Committee by the ward members, the supporter, or the objector.

3. Discussion

3.1 The argument has been made that, as the Council does have the means by which material can be displayed on screen at the Committee, that it would be advantageous to the Committee's understanding of the representation for speakers to be able to refer to material that is displayed concurrently at the Committee.

3.2 The counter argument is that by limiting the representation to a purely oral one this creates a "level playingfield" for applicant's agents and other interested parties. There is also a secondary concern that speakers, knowing that they could ask for material to be displayed, might use material that had not been previously submitted and had been available for public comment and inspection. Concerns have been voiced about the display of photographs because of the potential for the manipulation of images.

3.3 This issue needs to be considered in context – all application material and representations, which not uncommonly includes photographs – is available to view on the Council's website, members of the Planning Committee are provided with a link to the Council's website and are assumed to have viewed the documentation associated with the application prior to coming to the Committee. They are therefore assumed to be already taking that material into account in coming to their decision

3.4 Your Officer considers that upon occasion it might have been helpful to the Committee, particularly when reference is being made to the relationship between properties and design, if the speaker had been able to refer to layout and elevational details in particular, and to "point to" features. It is an aspect of the planning system that agents employ professional agents to make their case and this "advantage" is built into the system, but members of the public are often very capable of making their points persuasively as well. Provided officers continue to be given an opportunity to comment upon anything said, and material displayed, by the speakers, the Committee should be able to be appropriately advised - to avoid taking into account in their determination any "immaterial" considerations.

3.5 Provided the material being displayed has been submitted in advance (and for the avoidance of doubt that means in advance of the Committee's guillotine), is not in the format of a "presentation", and has been subject to public inspection (including by applicants in the case of material submitted by third parties) there should, in your Officer's view, be no particular problem with introducing such a change in procedure.. It is recommended, for practical and resource reasons, that officers would continue to operate the display equipment, although the speakers would be provided with a "pointer". Speakers would need to notify officers in advance what material, if any, they wished to have available for display.

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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