

# Public Document Pack

**Date of meeting** Tuesday, 18th June, 2019  
**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 3 - 8)  
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - FORMER BRISTOL STREET GARAGE, LONDON ROAD, NEWCASTLE. ADOBE RESIDENCIES. 16/01106/2CN03** (Pages 9 - 14)
- 5 **APPLICATION FOR MINOR DEVELOPMENT - BARN 2, MOSS HOUSE FARM, EARDLEYEND ROAD, BIGNALL END. MS A TOSEVA AND MR R MANDAIR. 18/00937/FUL** (Pages 15 - 22)
- 6 **APPLICATION FOR MINOR DEVELOPMENT - LAND TO REAR OF SILVER BIRCH, BIRKS DRIVE, ASHLEY HEATH.MR & MRS J PERKINS. 19/00103/FUL** (Pages 23 - 32)
- 7 **APPLICATION FOR MINOR DEVELOPMENT - 87 ST BERNARDS ROAD & LAND ADJACENT 2 VIGGARS PLACE. ASPIRE HOUSING. 19/00065/FUL** (Pages 33 - 40)
- 8 **APPLICATION FOR MINOR DEVELOPMENT - 9 RUSSELL STREET, WOLSTANTON. MERCIA GAS LTD. 19/00352/FUL** (Pages 41 - 48)
- 9 **APPLICATION FOR MINOR DEVELOPMENT - LAND TO THE WEST OF NEWCASTLE ROAD (A53), BLACKBROOK. MR D A AND T CLEE, J WILSON & M LEE. 19/00332/FUL** (Pages 49 - 62)
- 10 **ARTICLE 4 DIRECTION FOR MAER CONSERVATION AREA** (Pages 63 - 68)

- |    |                                                                                                                               |                 |
|----|-------------------------------------------------------------------------------------------------------------------------------|-----------------|
| 11 | <b>APPLICATION FOR FINANCIAL ASSISTANCE (Historic Buildings Grant) - BETLEY COURT, MAIN ROAD, BETLEY (Ref: 19/20001/HBG).</b> | (Pages 69 - 70) |
| 12 | <b>ENFORCEMENT UPDATE -5 BOGGS COTTAGES</b>                                                                                   | (Pages 71 - 72) |
| 13 | <b>LAND AT DODDLEPOOL, BETLEY. 17/00186/207C2</b>                                                                             | (Pages 73 - 74) |
| 14 | <b>HALF YEARLY REPORT ON PLANNING OBLIGATIONS</b>                                                                             | (Pages 75 - 86) |
| 15 | <b>LAND OFF WATERMILLS ROAD, CHESTERTON. CARDEN DEVELOPMENTS LTD. 18/00017/REM</b>                                            | (Pages 87 - 90) |
| 16 | <b>APPEAL DECISION - THE LODGE , STATION ROAD, ONNELEY. 18/00641/OUT</b>                                                      | (Pages 91 - 94) |
| 17 | <b>URGENT BUSINESS</b>                                                                                                        |                 |

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

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

**PLANNING COMMITTEE**

Tuesday, 21st May, 2019  
Time of Commencement: 7.00 pm

**Present:-** Councillor Andrew Fear – in the Chair

Councillors S. Burgess, Mrs J Cooper, D. Jones,  
P. Northcott, B. Panter, B. Proctor,  
M. Reddish, S. Sweeney, G Williams and  
J Williams

Officers Becky Allen - Landscape Manager, Geoff  
Durham - Mayor's Secretary / Member  
Support Officer, Rachel Killeen - Senior  
Planning Officer, Elaine Moulton -  
Development Management Team  
Manager, Matthew Shrigley, Trevor  
Vernon -Solicitor and Darren Walters-  
Environmental Protection Officer

**1. APOLOGIES**

Apologies were received from Councillors' Maxfield and Simon Tagg.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

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

**Resolved:** That the minutes of the meeting held on 23 April, 2019 be agreed as a correct record.

**4. APPLICATION FOR MINOR DEVELOPMENT - 4 MEADOWS ROAD, KIDSGROVE. KIMBERLEY DEVELOPMENTS LTD & KIDSGROVE WORKING MEN'S CLUB. 18/00889/FUL**

**Resolved:** (A) That, subject to:

- (a) The Environmental Health Department maintaining their objection to the scheme, the entering into by the applicants of a planning obligation by the 28th June financing the provision of improved glazing to any properties which the EHO consider would be materially impacted by the development ,
- (b) Kidsgrove Town Council providing their comments before the meeting and your Officer confirming that there has been sufficient opportunity to consider these, the application be

permitted subject to the undermentioned conditions:

- (i) Time Limit.
- (ii) Plans.
- (iii) Permitted construction hours.
- (iv) Permitted delivery hours.
- (v) Approval of noise levels for plant, cooling and ventilation equipment.
- (vi) Prior approval of any external lighting.
- (vii) Prevention of break out music from windows of the function room.
- (viii) Prevention of break out music from the fire door serving the stage.
- (ix) Hours of use limited to 9am to 11pm Monday to Thursday and 9am to 12pm Friday to Saturday including bank holidays.
- (x) Control of music volume within the main function room.
- (xi) Provision of parking, access and turning areas.
- (xii) Provision of cycle parking.
- (xiii) Prior approval and implementation of the marking out of the Meadows Road car park.
- (xiv) Approval and implementation of a Construction Method Plan.

- (B) Should the above Section 106 obligation 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 noise mitigation works being secured, the development would be likely to cause a material loss of residential amenity by reason of disturbance by noise , or if he considers it appropriate, to extend the period of time within which such obligation can be secured.

**5. APPLICATION FOR MAJOR DEVELOPMENT - KIDSGROVE WORKING MEN'S CLUB. HARDINGSWOOD ROAD, KIDSGROVE. LIDL UK GMBH & KIMBERLEY DEVELOPMENTS LTD. 18/00916/FUL**

- Resolved:**
- (A) That, subject to the applicant entering into a Section 106 obligation by agreement by 28th June 2019 to secure the following:
    - A Travel Plan monitoring fee of £2,407.
    - £10,000 for the provision of signal controlled pedestrian crossing facilities on the A50 Liverpool Road.

The application be permitted subject to the undermentioned conditions:

- (i) Time Limit.
- (ii) Plans, unless overridden by conditions below.
- (iii) No consent granted for signs indicated in submission
- (iv) Agreement of external facing materials.
- (v) Agreement of boundary treatments.
- (vi) Hard and soft landscaping details, including for area currently proposed for 10 car parking spaces adjacent to Canal boundary, and tree protection measures

***Highways and parking matters***

- (vii) Amended car parking layout to reflect condition 5 above
- (viii) Full details of the site access on Hardingswood Road
- (ix) Agreed visibility splays being provided on Hardingswood Road
- (x) The development not to be brought into use until parking, servicing and turning areas have been provided in accordance with the approved plans.
- (xi) Prior approval and provision of surface water drainage for the access and car park.
- (xii) Off-site highways works for the provision of road signs 'for pedestrians in carriageway' and 'slow' road markings on Hardingswood Road and Second Avenue prior to use of the development.
- (xiii) Pedestrian / cycle access point's provision.
- (xiv) The pedestrian / cycle route via the canal towpath to be signed subject to the agreement and thereafter maintained.
- (xv) Secure weatherproof cycle parking details
- (xvi) The submitted Travel Plan shall be fully implemented. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary date of the planning consent for a period of 5 years.
- (xvii) Agreement and implementation of a Delivery Vehicle Management Plan.
- (xviii) The agreement and implementation of a Construction Management Plan.

***Drainage***

- (xix) Foul and surface water drained on separate systems.
- (xx) Prior approval and implementation of a surface water drainage scheme.
- (xxi) The surface water drainage scheme to be in accordance with Standards for Sustainable Drainage Systems.

***Amenity matters/ Site contamination***

- (xxii) Agreement of a Construction and Demolition Environmental Management Plan.
- (xxiii) Implementation of the submitted lighting scheme.
- (xxiv) Agreement of refuse and storage arrangements.
- (xxv) No noise generating plant shall be installed externally in any part of the development until full and precise details of the proposed plant and any mitigation measures have been submitted to and approved in writing by the Local Planning Authority.

- (xxvi) Deliveries to, and waste collections from, the store shall not take place before 7am or after 11pm on any day.
- (xxvii) Standard conditions relating to dealing with land contamination and the importation of soil
- (xxviii) Electric Vehicle charging points provision.
- (xxix) That a traffic Regulation Order be confirmed prior to commencement of development.

In addition, a note be sent to the applicant requesting their consideration of the matters referred to by the Crime Prevention Design Advisor.

- (B) Should the above Section 106 obligation 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 ensure it achieves sustainable development outcomes and safety improvements required to secure an appropriate context for the development, and there would not be an appropriate review mechanism to allow for changed financial circumstance, or, if he considers it appropriate, to extend the period of time within which the obligations can be secured.

**6. APPLICATION FOR MAJOR DEVELOPMENT - NEWCASTLE-UNDER-LYME SCHOOL, MOUNT PLEASANT, NEWCASTLE. THE SCHOOL GOVERNORS. 19/00042/FUL**

*Councillor Ruth Wright spoke on this application.*

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

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

The overbearing nature of the building due to its height, scale, massing and location, and its inappropriate design and use of materials would be detrimental to the character and appearance of the Conservation Area contrary to local and national policy.

**7. APPLICATION FOR MAJOR DEVELOPMENT - LAND ADJACENT TO KEELE UNIVERSITY, UNIVERSITY AVENUE, KEELE UNIVERSITY. KEELE HOTEL DEVELOPMENTS LTD AND KEELE UNIVERSITY SCIENCE AND BUSINESS PARK LTD. 19/00203/REM**

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

- (i) Link to outline planning permission and conditions
- (ii) Approved drawings
- (iii) Materials
- (iv) Provision of access, parking, turning and servicing areas
- (v) Provision of staff cycle parking store
- (vi) Details of cycle parking for visitors
- (vii) Travel Plan

- (viii) Recommendations of the Wardell Armstrong Arboricultural Impact Assessment to be followed
- (ix) Submission of Arboricultural Method Statement
- (x) Updated Tree protection Plan
- (xi) Approval of line of footpath link to Keele Road
- (xii) EV charging points and infrastructure

8. **APPLICATION FOR MINOR DEVELOPMENT - ST JAMES CHURCH, CHURCH STREET, AUDLEY. NEWCASTLE-UNDER-LYME BOROUGH COUNCIL. 19/00231/DEEM3**

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

- (i) Time limit condition
- (ii) Approved plans
- (iii) Materials
- (iv) Archaeological building recording: Level 1 photographic record
- (v) Archaeological watching brief
- (vi) Written scheme of archaeological investigation
- (vii) Arboricultural Method Statement
- (viii) Arboricultural Site Monitoring Schedule

9. **APPLICATION FOR MINOR DEVELOPMENT - BETLEY COURT FARM, MAIN ROAD, BETLEY. MR AND MRS F SPEED. 19/00183/FUL**

*Councillor Gary White spoke on this application.*

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

- (i) Standard Time limit for commencement of development
- (ii) Approved plans
- (iii) Restriction to use as a holiday let
- (iv) Sample facing and roofing materials
- (v) Joinery details – doors and window frames
- (vi) Window reveals
- (vii) Boundary treatments
- (viii) Archaeological building recording
- (ix) Electric vehicle charging provision
- (x) Parking area provision

10. **PLANNING COMMITTEE SITE VISIT DATES FOR 2019/20**

**Resolved:** That the dates and times for possible Planning Committee site visits for 2019/20 be agreed.

11. **APPEAL DECISION - IMPERIAL WORKS, TALKE. 18/0066/FUL**

**Resolved:** That the appeal and cost decision be noted.

12. **QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED**

**Resolved:** That the information be received.

**13. OPEN ENFORCEMENT CASES**

- Resolved:**
- (i) That the report be received.
  - (ii) That a further update be provided alongside the next quarterly monitoring report on cases where enforcement action has been authorised.

**14. URGENT BUSINESS**

There was no Urgent Business.

**COUNCILLOR ANDREW FEAR**  
**Chair**

Meeting concluded at 8.45 pm



**FORMER BRISTOL STREET GARAGE**  
**LONDON ROAD, NEWCASTLE**  
**ADOBE RESIDENCIES**

**16/01106/2CN03**

The application is for approval of full and precise detail of all external facing materials for blocks 1 and 2, including exterior parking and pedestrian hard surfaces, and revised boundary treatment as required by condition 3 of planning permission 16/01106/FUL - redevelopment of the site for 499 apartments (comprising of student accommodation).

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

The 8 week period for the determination of this application is the 27<sup>th</sup> June 2019.

**RECOMMENDATION**

Permit

**Reason for Recommendation**

The submitted materials and finishes for the buildings are those which were anticipated for the scheme taking into account plan and 3D imaging submitted to the Council at the time when the development was originally considered. The details submitted accord with design policies within the Councils Development Plan and the National Planning Policy Framework.

**Key Issues**

Full planning permission for 499 studio apartments for student occupation on the site was considered by the Council's Planning Committee at its meeting on August 2017. The development subsequently obtained planning permission in October 2017 following the completion of a related Section 106 agreement.

Condition 3 (a) of the permission granted requires the Planning Authority's agreement of all external facing materials to be used in the construction of the development (including doors and fenestration and exterior parking and pedestrian hard surfaces), whilst condition 3(c) requires the submission and approval of revised boundary treatments.

In approving the development the Planning Committee asked that the external facing materials to be used in construction of the development be subject to Committee approval. The applicant now seeks formal approval of the condition details referred to. Approval has already been given for the details of the window detailing in plan form.

The applicant proposes the following external facing material choices for the approved accommodation buildings Blocks 1 and 2:-

- Smooth Silver aluminium cladding panels for the walls of Block number 1.
- For the block which fronts London Road smooth red bricks are proposed, along with a polar white rendered central projecting feature and silver aluminium panels at 2<sup>nd</sup> floor level.
- Grey coloured aluminium windows and doors on both buildings.
- For decorative shading areas and architectural framing around some of the windows a composite cedar wood effect material is proposed.

The two blocks involved are at the southern end of the site – one fronting onto London Road and the other lying adjacent to and parallel to the Lyme Valley Parkway.

Another condition of the planning permission required approval of a cladding cleaning regime to be obtained, and this has been done.

Details of the external materials for Blocks 3, 4 and 5 have not yet been submitted for approval.

With respect to pedestrian and parking surfaces and boundary treatments requiring approval:-

- Black tarmac is proposed for the internal roads and parking areas. Grey concrete flags are proposed for the pedestrian walkways within the site boundary. Permeable grasscrete is also proposed for some of the hard surfacing to be situated within the car park area where a line of tree planting is to be carried out as well as some other periphery tree planting areas around the site boundary.
- Black estate style fencing is proposed along the boundary shared with Lyme Valley Parkway.

A 3D image of the development will be available at the meeting showing how the materials will appear in the context of their surroundings. Photographs of the materials will also be available for display.

Your officer advises that the submitted materials for blocks 1 and 2 as well as the landscaping and boundary detailing specified are those which were anticipated during negotiation of the scheme, comply with the design policies of the Local Plan and the National Planning Policy Framework and are acceptable.

## **APPENDIX**

### **Policies and proposals in the Development Plan relevant to this recommendation**

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

Policy CSP1: Design Quality

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

[National Planning Policy Framework \(2019\)](#)

[Planning Practice Guidance \(PPG\) \(2019\)](#)

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

### **Relevant Planning History**

16/01106/FUL Redevelopment of the site for 499 apartments Permitted 2017  
(comprising of student accommodation)

16/01106/CN03 – Approval of details required by condition 3(b) given, but not for conditions 3(a) and 3(c) – 1st February 2019

### **Applicants Submission**

- Condition discharge information document.

All these documents are available to view on the Council's website

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/01106/2CN03>

**Background Papers**

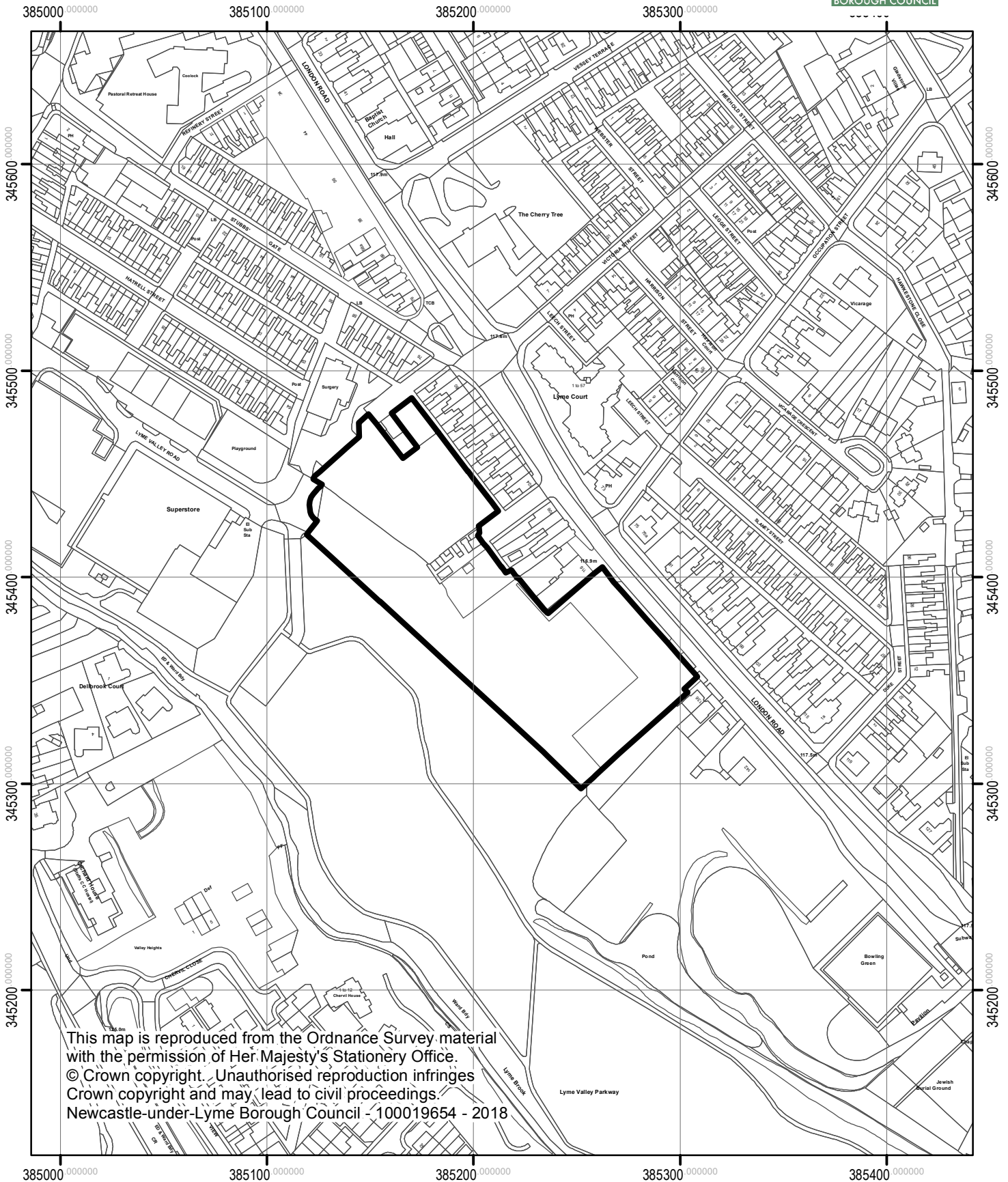
Planning Policy documents referred to  
Planning files referred to

**Date Report Prepared**

3rd June 2019

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# Former Bristol Street Motors Site London Road, ST5 1LZ



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 Newcastle-under-Lyme Borough Council - 100019654 - 2018

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**BARN 2, MOSS HOUSE FARM, EARDLEYEND ROAD, BIGNALL END  
MS A TOSEVA AND MR R MANDAIR**

**18/00937/FUL**

This is an application for full planning permission for the retention of buildings to form two dwellings.

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

This application was reported to Committee on the 26<sup>th</sup> February but a decision was deferred to allow for the submission of additional information on whether appropriate approvals with respect to rebuilding were sought by the applicant during the construction process and to enable Members to receive in advance, copies of the two previous appeal decisions and the full statutory declaration.

**The statutory 8-week period for the determination expired on the 21<sup>st</sup> January but the applicant has agreed to extend the statutory period until 21<sup>st</sup> June 2019.**

## **RECOMMENDATIONS**

- A. REFUSE the application on the grounds that the proposed development represents inappropriate development within the Green Belt, as it is not for any of the exemptions as listed in the National Planning Policy Framework. Very special circumstances do not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. The development therefore does not accord with the aims and objectives of the National Planning Policy Framework.**
- B. The Council's solicitor be authorised to issue enforcement action and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure removal of the building within 12 months.**

## **Reason for Recommendations**

The proposed development represents inappropriate development within the Green Belt. Very special circumstances do not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. The development therefore does not accord with the aims and objectives of the National Planning Policy Framework. Enforcement action is therefore justified.

## **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 this development.

## **KEY ISSUES**

This is an application for full planning permission for the retention of the rebuilding of a barn following partial demolition and reconstruction, to provide two dwellings. The barn is located within the Green Belt and an Area of Landscape Enhancement as indicated by the Local Development Framework Proposals Map.

Full planning permission was granted at appeal for the conversion of the barn to two residential market housing units (Ref. 13/00755/FUL). An application was subsequently submitted in 2017 to retain alterations to the approved scheme (Ref. 17/00326/FUL) but it was evident that a substantial proportion of the building had been demolished and rebuilt. Such extensive rebuilding was considered to amount to a replacement building and therefore that application was refused on the grounds that

the development comprised inappropriate development within the Green Belt and very special circumstances did not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. An appeal against the Council's decision was subsequently dismissed with the Inspector also considering the development to comprise inappropriate development in the Green Belt.

In addition to retention of the barn as two dwellings, the current proposal seeks to retain alterations which have not been carried out in accordance with the approved plans comprising an increase in the roof height and additional and altered windows. It also proposes alterations to the style of the windows and the addition of sun tunnels. The increase in the roof height and the additional windows were considered to be acceptable by both the Council in determining Application 17/00326/FUL and the Inspector in dismissing the appeal. It is not considered necessary to assess those alterations now and the additional sun tunnels and amended window style are considered acceptable.

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

- Does the proposal constitute appropriate or inappropriate development in the Green Belt?
- If the development is considered to be inappropriate development, do the required very special circumstances exist?
- If planning permission is refused, should enforcement action be taken?

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

Paragraph 133 of the revised National Planning Policy Framework (NPPF) details that "The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence."

Given the amount of the building that has been demolished and rebuilt, this is considered tantamount to a replacement of the original building. The NPPF states in Paragraph 145 that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt. A number of exceptions to this are identified and exceptions include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

In this case, the new building is not in the same use as the building that it replaces and therefore, the starting point is that the proposal represents inappropriate development in the Green Belt, which should not be approved unless very special circumstances can be demonstrated.

Do the required very special circumstances exist that would overcome the harm caused by inappropriate development in the Green Belt?

As concluded above, the proposal constitutes inappropriate development in the Green Belt and 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 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. It states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

In relation to the previous application, the applicant advanced a case of 'very special circumstances' in the form of a Supporting Statement and Inspection Reports from the Building Inspectors appointed to oversee the works. A summary of the case made is as follows:

- The appearance of the building is substantially the same as originally approved with no change in footprint or material increase in height.
- The retention of the building, re-constructed using the original brickwork, would result in a building in keeping with its surroundings which would enhance the character and quality of the landscape.
- The retention of the building would be a significant improvement in visual terms when compared with the alternative of a partly constructed building with no useful function should the elements of rebuilding be required to be removed by way of enforcement action.



- The incomplete building would be likely to have an adverse impact on the successful use of the approved holiday lets.
- The provision of two houses would make a small contribution towards the Council's five year housing supply.
- Residential use of the barn would contribute to the local economy through additional retail and leisure spending.
- The circumstances surrounding the previous application including the works carried out by the previous builder, the delays in discharging conditions and the apparent structural deterioration of the building over time which appears to have resulted in a requirement for additional re-construction over and above that previously permitted.

In dismissing the appeal the Inspector considered that these circumstances could only be attributed limited weight and did not amount to very special circumstances to justify the development.

The applicant's agent has now submitted personal financial information to seek to demonstrate the financial loss that the applicants will face which will have a significant detrimental impact on the family as a whole in the event of not being able to complete and occupy their home, re-mortgage and pay off substantial unsecured debt. It is asserted that a combination of the circumstances surrounding the previous applications and appeal as referred to above combined with the financial impact of not being able to complete the development amounts to very special circumstances.

It is stated that the applicant has invested significant sums of money into the property to provide a family home. The total cost has arisen from purchasing the site, construction works, fencing hire and professional fees. In addition, the applicant has had to rent alternative accommodation. If the scheme cannot be completed the value of the property would be close to being worthless and the applicants would not be able to recoup any of their investment.

The applicant's agent refers to the case of *Wychavon District Council v Secretary of State 2009* which was a case concerning the loss of a home occupied by gypsies located in the Green Belt. The issue of 'very special circumstances' was considered and the applicant's agent asserts that a number of the conclusions reached can be applied to the current application.

Whilst the applicant's circumstances and the potential financial impact are unfortunate, it is not considered that the submitted financial information alters the conclusions in relation to the previous application and appeal. Although it is acknowledged that in the *Wychavon* case, referred to above, the loss of a family home was considered capable of being a 'very special' factor, the circumstances here are not directly comparable in that the applicants would not be left without a home should this application not be approved and the proposal involves the formation of two dwellings with no indication that the second home was ever to have been the applicants' families home.

Since the meeting of the Planning Committee on 26<sup>th</sup> February, the applicant's agent has submitted a letter that summarises the involvement of both the architect (bpArchitecture Ltd) and the applicant in the events to date along with copies of correspondence between parties. A summary is as follows:

- Following the discharge of conditions the architect had limited involvement in the construction work which was left to the responsibility of the applicant's builder.
- The approved scheme included a structural engineer's report which identified that the southern portions of the east and west elevations could be re-built. The report was produced three years prior to works commencing on site.
- Shortly after construction began, the southern half of the western wall came down during a strong wind taking together with a further element of that wall. This section was rebuilt without any liaison with the LPA on account that the majority of the wall was approved for rebuilding in the original scheme.
- When the appointed building inspector visited the site he identified that the remainder of the east and west walls were no longer structurally sound and needed to be rebuilt.
- The architect became involved in the project again when asked to resolve issues with the alterations to the roof and windows that had not been built in accordance with the approved plans. A further planning application was submitted to regularise these matters. During a site visit in September 2017 with the architect and the Council, it became evident that the balance of the east and west walls had been rebuilt.

- A Structural Statement was produced as part of the 2017 application which identified further areas that needed to be rebuilt due to structural instability.
- During the time between the initial collapse of the wall in September 2016 and the discovery of the wider elements of rebuild in September 2017, the applicants had delegated the management of the building to the builder (Mr Mandair's uncle). This was because Mr Mandair was focusing on his business and Ms Toseva was heavily pregnant and busy with work commitments. As a consequence, visits to the site by them were limited. They had previously used Mr Mandair's uncle to complete another building project which had given them confidence in his experience and expertise. They now realise that such confidence was in error given the complexities and nuances involved in the conversion of agricultural buildings. Mr Mandair's uncle was meeting directly the structural engineer and building inspector on site but due to him not being fluent in English he misinterpreted the professional advice given by the structural engineer and went on to rebuild the gable end walls as well on the incorrect assumption that these elements were also structurally unstable.
- It is likely that these rebuilding works were undertaken between the end of October 2016 and the beginning of April 2017 but given that neither of the applicants were regularly on site, it is not possible for them to confirm the exact date.
- It appears that the uncle's motivations for rebuilding the walls were borne out of his desire to deliver the highest quality of development and therefore he opted to rebuild the walls to increase the stability of the building.
- In summary, it is evident that the applicants only became aware of the full extent of the rebuilding at the same time as it was discovered by the architect and the Council. At that point they immediately put the project on hold with the view of only completing the scheme once they have received the appropriate permissions. It is evidently clear that the applicants have at no point sought to purposely conceal the extent of rebuilding of the walls of the barn. Instead through a series of unfortunate events which are at no fault of their own, the applicants are in a position where they risk planning permission being refused to retain their future family home.

While the applicant's agent has sought to demonstrate that the applicants never sought to wilfully conceal works that were unauthorised which is not disputed, and while the applicant's circumstances are unfortunate, it remains your Officer's view that the case advanced does not amount to the 'very special circumstances' required to outweigh the harm by reason of the inappropriate development in the Green Belt.

Copies of the two previous appeal decisions and the full statutory declaration have been sent to Members.

If planning permission is refused, should enforcement action be taken?

The development has been partially completed and given the conclusions of this report, it is necessary to consider the expediency of taking enforcement action against the breach of planning control.

As indicated above the development is harmful to the Green Belt by virtue of it being inappropriate development. Such harm is sufficient for a conclusion to be reached that it is expedient to take enforcement action.

In terms of the action required, given the extent of the works that have been carried out, very little, if any, of the original building remains with the Inspector in the previous appeal noting that all of the external walls and the roof having been re-built. What is on site is a new building. It is therefore considered that there is no alternative but to require the demolition of the structure in its entirety and given that what is there is a new building such action would be appropriate. The building is part of a larger 'L' shaped building but subject to details regarding the finishing of the newly exposed elevations, it is considered that the part of the building not within the ownership of the applicant, can be retained without any adverse impact on the visual amenity of the area.

The applicants are currently residing elsewhere and therefore, it is not the case that they need to find alternative accommodation. It is considered therefore that 12 months is a reasonable period for demolition of the building and the making good of the site and the remaining building.

## **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 H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy H9: Conversion of Rural Buildings for Living Accommodation  
Policy E12: The Conversion of Rural Buildings  
Policy N17: Landscape Character - General Considerations  
Policy N20: Area of Landscape Enhancement

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

#### [National Planning Policy Framework \(2019\)](#)

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

#### [Supplementary Planning Guidance](#)

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

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

#### Relevant Planning History

12/00270/FUL	Erection of two storey side extension and alterations and additions	Approved
12/00518/FUL	Render to external walls, replacement front porch and side canopy	Approved
13/00754/FUL	Change of use and conversion of shorter arm of existing brick and tiled barn into 3 residential holiday accommodation units	Approved
13/00755/FUL	Change of use of former barn to two residential market housing units	Refused and allowed on appeal
17/00326/FUL	Rebuilding of a barn for residential use	Refused and dismissed on appeal

#### Views of Consultees

**Audley Rural Parish Council** comments that the buildings should comply with the enforcement issue regarding roof height prior to being approved.

#### Representations

One letter of objection has been received expressing concerns regarding the number of errors in the application. It is stated that much of the work detailed to be carried out is to areas not owned by the applicants and the drawings should be corrected to reflect only work to be carried out on their property. Much of the work already carried out is not in accordance with the original approved drawings. Members of the Planning Committee should visit the site to view the situation.

Applicant/agent's submission

The information submitted in support of this application is available for inspection on the Council's website by searching under the application reference number 18/00937/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00937/FUL>

The appeal decision for application **Ref. 13/00755/FUL** is available to view via the following link:

<http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00190862.pdf>

The appeal decision for application **Ref. 17/00326/FUL** is available to view via the following link:

<http://publicdocs.newcastle-staffs.gov.uk/AnitePublicDocs/00254194.pdf>

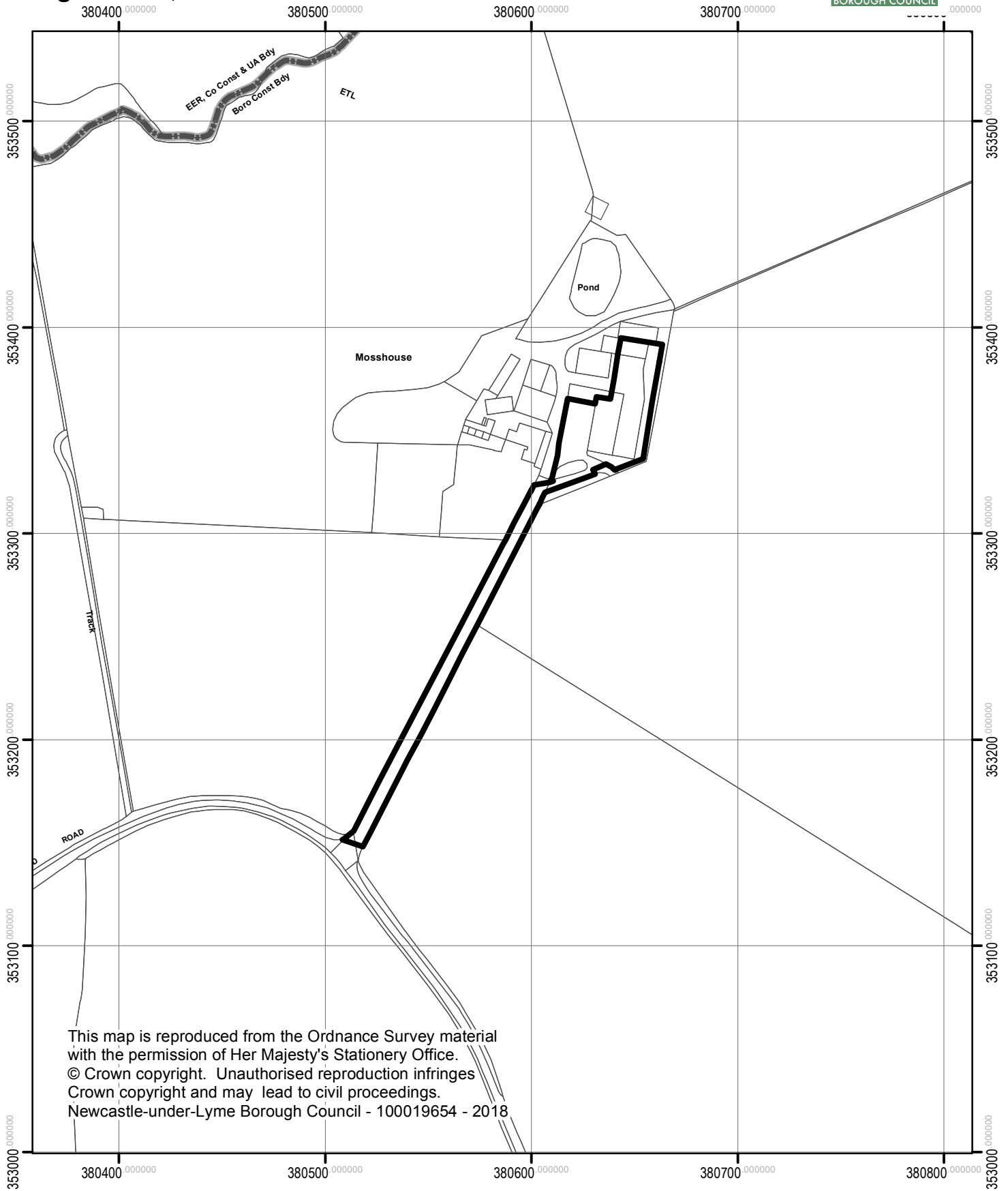
Background Papers

Planning File  
Development Plan

Date report prepared

5<sup>th</sup> June 2019

**Barn 2, Moss House Farm  
Eardleyend Road  
Bignall End, ST7 8NB**



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**LAND TO REAR OF SILVER BIRCH, BIRKS DRIVE, ASHLEY HEATH**  
**MR & MRS J PERKINS**

**19/00103/FUL**

The application is for full planning permission for the demolition of the existing detached garage and erection of a detached dormer dwelling.

The application site lies outside of Loggerheads village envelope as indicated on the Local Development Framework Proposals Map and the Loggerheads Neighbourhood Plan. The site contains a number of trees that are protected by Tree Preservation Order no. 9.

The application has been called to the Planning Committee for determination by two Councillors due to the following concerns:

- Outside of village envelope and not in compliance with Neighbourhood Plan
- Out of keeping with the locality.
- Loss of privacy.
- Garden grabbing.
- Increased likelihood and ease of fire spreading within the immediate locality.
- Impact on bats.

**The 8 week period for the determination of this application expired on 25<sup>th</sup> April 2019, however the determination period has been extended to the 24<sup>th</sup> June 2019, following agreement by the applicant.**

**RECOMMENDATION**

**REFUSE for the following reasons: -**

- 1. The proposed scale of the proposed dwelling would result in it being disproportionate to the size of the plot which would be out of keeping and harmful to the character of the Ashley Heath area. The proposed development is therefore contrary to policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, policies LNPP1 and LNPP 2 of the Loggerheads Neighbourhood Plan, the guidance set out in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) and the requirements and policies of the National Planning Policy Framework 2019.**
- 2. The proposed development would result in the loss of visually significant trees which would be harmful to the character of the Ashley Heath area. The proposed development is therefore contrary to saved policies N12 and N13 of the Newcastle-under-Lyme Local Plan 2011, policies LNPP1 and LNPP2 of the Loggerheads Neighbourhood Plan, and the requirements and policies of the revised National Planning Policy Framework 2019.**

**Reason for Recommendation**

Planning permission has in the past been granted for residential development here, the permission is extant, and as such there can be no objections with regard to the principle of the development or in respect of highway safety. The size of the dwelling on this plot will, however, be out of keeping with the character of the Ashley Heath area and would unacceptably result in the loss of visually significant trees to the detriment of the character of the area.

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

## **Key Issues**

This application is for full planning permission for the erection of a detached dormer dwelling in the rear garden of the existing property, Silver Birch.

Planning permission has been granted on this site for a detached bungalow, 15/00435/FUL, and a lawful material commencement of that permission has taken place. As such the permission remains extant. In light of this it can be concluded that the development of this site for a single dwelling has been established and therefore it must be concluded that the principle of residential on this site is acceptable.

The proposed access is that already approved under 15/00435/FUL and given that the proposal does not involve a material intensification of the use of that access and in light of the Highway Authority not raising objections to the proposal it is considered that the current application does not raise highway safety concerns.

The main issues in the consideration of the application are therefore:

- Is the proposal acceptable in terms of its impact on the form and character of the area?
- Would there be any adverse impact on residential amenity?
- Would there be any adverse impact on trees?

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

The site comprises a greenfield, former garden site surrounded by residential development.

Paragraph 124 of the 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. It goes on to say at paragraph 130, that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

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

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

Policy LNPP1 of the Loggerheads Neighbourhood Plan (LNP) indicates that to be supported new development must demonstrate high standards of design. This includes amongst other things:

- Comprising site specific design solutions to complement, but not necessarily imitate, the surrounding context.



- Complementing the established character of the surrounding context in terms of scale, density, massing, height and degree of set-back from streets and spaces.
- Retaining trees and hedgerows (unless it is demonstrated the need for, and benefits of, development in that location clearly outweigh the loss or they are judged to be poor specimens or species not appropriate to the area) and providing high quality planting and landscape design.

Policy LNPP2 of the LNP says that new development must complement and reinforce the local character of the area and non-designated heritage, including conserving buildings and their setting and comprising high-quality, site-specific design. In respect of the Ashley Heath character area particular attention must be paid to complementing the established character, based on housing set-back from the road, often with front boundary hedges, and preserving protected trees.

The surrounding area is characterised by medium to large residential properties set within plots of varying sizes but which are generally larger than the plot that has been created by the subdivision of the existing garden as proposed. Planning permission has already been granted for the construction of a modest detached bungalow on this plot, including the demolition of the existing detached garage.

The current proposal is for a larger dormer dwelling on a 'T' shaped footprint with a steeply pitched roof, to be covered with a standing seam finish or concrete interlocking tiles. A projecting gable, incorporating a balcony at upper floor is proposed on the front, south-west elevation and rear, north-east elevation. The balcony originally proposed within the south-east elevation has been removed from the proposed scheme and replaced by obscure glazed windows within the gable. A dormer was proposed within the roof plane on the front elevation but amended plans suggest that this has been amended to a dormer window, there is, however, a discrepancy on the plans and therefore clarification is sought. A large section of glazing is proposed within the plane of the roof on the side, north-west elevation. The roof plane also incorporates a number of roof lights on all elevations.

There are a variety of styles of dwellings in the area and it is considered that the design of the dwelling proposed is of a high quality and would be acceptable in this location. Of concern, however, is the scale of the proposed dwelling. The footprint of the dwelling results in a large proportion of the plot being covered by building and hardstanding and the rear, north-east elevation and side, south-west elevation extend very close to the side and rear boundary as a result. This results in the proposed dwelling visually dominating the plot which is out of keeping with the area where, as indicated above, the dwellings are generally medium to large properties within larger plots than this application and therefore with more open/garden space around them. This differs from the bungalow permitted under 15/00435/FUL which had a smaller footprint and more garden space.

Notwithstanding that the plot is to the rear of an existing property and would not be prominent in public views the scale of the proposed dwelling is nevertheless unsympathetic to the character of the wider area and as a result would conflict with Policy CSP1 of the CSS, the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guide and Policies LNPP1 and 2 of the LNP as well as the NPPF.

#### Would there be any adverse impact on residential amenity?

Supplementary Planning Guidance (SPG) Space about Dwellings provides advice on environmental considerations such as light, privacy and outlook.

There was concern, initially, about the relationship of principal windows within the proposed dwelling and the neighbouring property, the Shieling which is situated to the south-east of the application site and that this would result in the loss of privacy within that dwelling and its private rear garden space. This resulted in the submission of amended plans which repositioned the dormer window on the front, south-west elevation higher above the floor level of the upper floor to limit the ability to overlook the adjacent property. In addition the side facing balcony, which was positioned in very close proximity to the side, south-east boundary with the Shieling, has been omitted from the plans and replaced by obscure glazed windows. It is considered, given the separation distance involved between the dormer window and the nearest rear facing principal window of the Shieling that the amendments have satisfactorily addressed the concerns regarding privacy.

With respect to the interrelationship of the proposed dwelling with the other neighbouring properties, sufficient distances are proposed between existing and proposed dwellings in compliance with the Council's SAD SPG.

Whilst the proposed dwelling would be close to the side boundary with the Shieling, this is at the bottom of their rear garden and would not, therefore, result in the building having an unacceptable overbearing impact. Whilst the proximity to the boundary is tight and would be out of keeping with character of the area this is a matter of visual amenity rather than residential amenity.

In conclusion, it is not considered that a refusal could be sustained on the grounds of impact on residential amenity.

#### Would there be any adverse impact on trees?

There are a number of trees on the site and the application is accompanied by an Arboricultural Report. In granting planning permission under 15/00435/FUL, it was accepted that a number of category U trees should be removed to accommodate the development but which would in any event have needed to be removed in the interest of good tree management. Three trees have subsequently been felled.

The current proposal involves the removal of a further 4 trees. Three of these trees are category B (trees of moderate quality with an estimated remaining life expectancy of at least 20 years) with the other being category C (trees of low quality with an estimated remaining life expectancy of at least 10 years). It is considered that the loss of these trees would cause substantial visual harm to the area given the importance of the tree cover to the character of that area and as such is unacceptable

Concern has been expressed by the Landscape Development Section (LDS) that the proposed development could compromise further trees within the site and on adjoining land. An amendment has been received which adjusts the position of hardstanding so that it is largely outside of Root Protection Areas. In addition discussions are ongoing between the applicant's arboriculturalist and the LDS and it is possible that the LDS will be satisfied that no further tree loss than the 4 identified above will arise as a direct consequence of the construction of the dwelling. Further information in this regard will be reported prior to the meeting, if available.

The LDS have also expressed concern that the proximity of the dwelling to retained trees, particularly in respect of the balconies, could lead to post development resentment of the trees by the occupants of the dwelling would be likely to lead to subsequent pressure for felling or pruning. To some extent this has been addressed by the removal of the balcony from the side elevation and taking into account that other residents of Ashley Heath already live in close proximity to trees, given the extent of tree cover in the area, it would be difficult to argue that the Council would have no choice but to succumb to any pressure for tree removal. It is therefore considered that such a concern does not in itself justify refusal of planning permission. It, however, remains that the loss of trees arising from the development is unacceptable as indicated above.

## **APPENDIX**

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

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

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

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

Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy N12:	Development and the Protection of Trees
Policy N13:	Felling and Pruning of Trees

#### [Loggerheads Neighbourhood Plan \(LNP\) 2013-2033](#)

Policy LNPG1:	New Housing Growth
Policy LNPP1:	Urban Design and Environment
Policy LNPP2:	Local Character & Heritage
Policy LNPT1:	Sustainable Transport

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

#### [National Planning Policy Framework \(NPPF\) \(2019\)](#)

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

#### [Supplementary Planning Guidance/Documents](#)

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

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

#### Relevant Planning History

03/00097/OUT	Refuse	Erection of dwelling
03/00096/FUL	Refuse	New double garage with driveway, turning area and access point
04/00259/OUT	Refuse	Conversion of existing garage and extension to form a retirement bungalow. Subsequent appeal dismissed.
07/00397/FUL	Refuse	Single storey rear extension, porch and double garage
07/00852/FUL	Permit	Single storey rear extension and front entrance
15/00435/FUL	Permit	erection of a detached bungalow, associated access and car parking arrangements

#### Views of Consultees

The **Environmental Health Division** has no objections subject to conditions restricting construction hours, setting maximum noise levels, requiring electric vehicle charging points, and requiring details of design measures, supported by an appropriate assessment of road traffic noise from the A53 to be submitted and approved.

The **Landscape Development Section** indicates that the proposals would have a major impact on existing trees and that it has no option but to object to the scheme in its current form. Most of the trees are included in Tree Preservation order number 9. The arboricultural report takes no account of the three trees that have already removed and there are objections to the removal of a further 4 trees. Not only would the loss of these trees cause substantial harm to the tree cover but there is concern that their removal is likely to increase the effect of wind on adjacent trees and cause further loss. The arboricultural report does not take full account of all proposed surfacing within Root Protection Areas (RPAs) and fails to address the issue of the proposed building and garden walls being within RPAs. Category A trees within the grounds of the adjoining properties, Pinetrees and the Sheiling, would all be compromised by the proposals. The proximity of the retained trees to the building, particularly to the balconies, could lead to post development resentment of the trees by the occupants of the dwelling arising from concerns such as shading, damage to property during strong winds and leaves blocking gullies. This would be likely to lead to subsequent pressure for the felling or pruning of trees.

The **Highway Authority** has no objections to the proposal subject to the imposition of conditions requiring the access, parking and turning areas to be provided prior to occupation, and the retention of the carport for the parking of motor vehicles and cycles.

**Loggerheads Parish Council** objects to the application as it does not comply with the policies in the Loggerheads Neighbourhood Plan regarding development, and the proposal is for a two storey dwelling adjacent to a bungalow and the design and layout will impact on the amenity of this bungalow.

#### Representations

Representations have been received from 15 individuals objecting to the application. The main concerns expressed are summarised as follows:

- The proposed larger two-storey dormer type house deviates from the previously approved bungalow. It is too large for the size of the plot and this and the proposed design and choice of materials results in the development not being in keeping with surrounding properties and the wider area.
- The proposal would be harmful to the character of the area which the Parish Council considers should be designated as a Conservation Area.
- The proposal is not in keeping with the Neighbourhood Plan.
- Protected trees will need to be removed in order to build this much larger property which will have an impact on the woodland and wildlife habitats for which Ashley Heath.
- The position of balconies and windows in the proposed development will result in unacceptable overlooking of adjoining properties contrary to guidance. Diagrams within the submission fail to show the proximity of the dwelling to boundaries
- The development as proposed necessitates the demolition of an existing garage which was rejected by planning last time as it was stated that the garage should be retained for parking this was requested and will seriously disrupt several protected trees.
- The retention of the garage has not allowed the foundations for the dwelling to be permitted under 15/00435/FUL which raises the question as to whether that development has been commenced.
- Birks Drive is a single track unadopted road. The proposal does not adequately provide parking, loading or turning facilities for larger vehicles which may result in the need to use private land to gain access.
- Birks Drive would not be able to withstand heavy construction and delivery vehicles.
- This proposal is similar to the Owl House where permission was granted for a small dwelling which was subsequently exceeded by subsequent approvals.
- Additional noise during building works will cause problems for shift workers and young children due to the close proximity of other properties.

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

All of the application documents can be viewed on the Council's website using the following link:

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00103/FUL>

Background papers

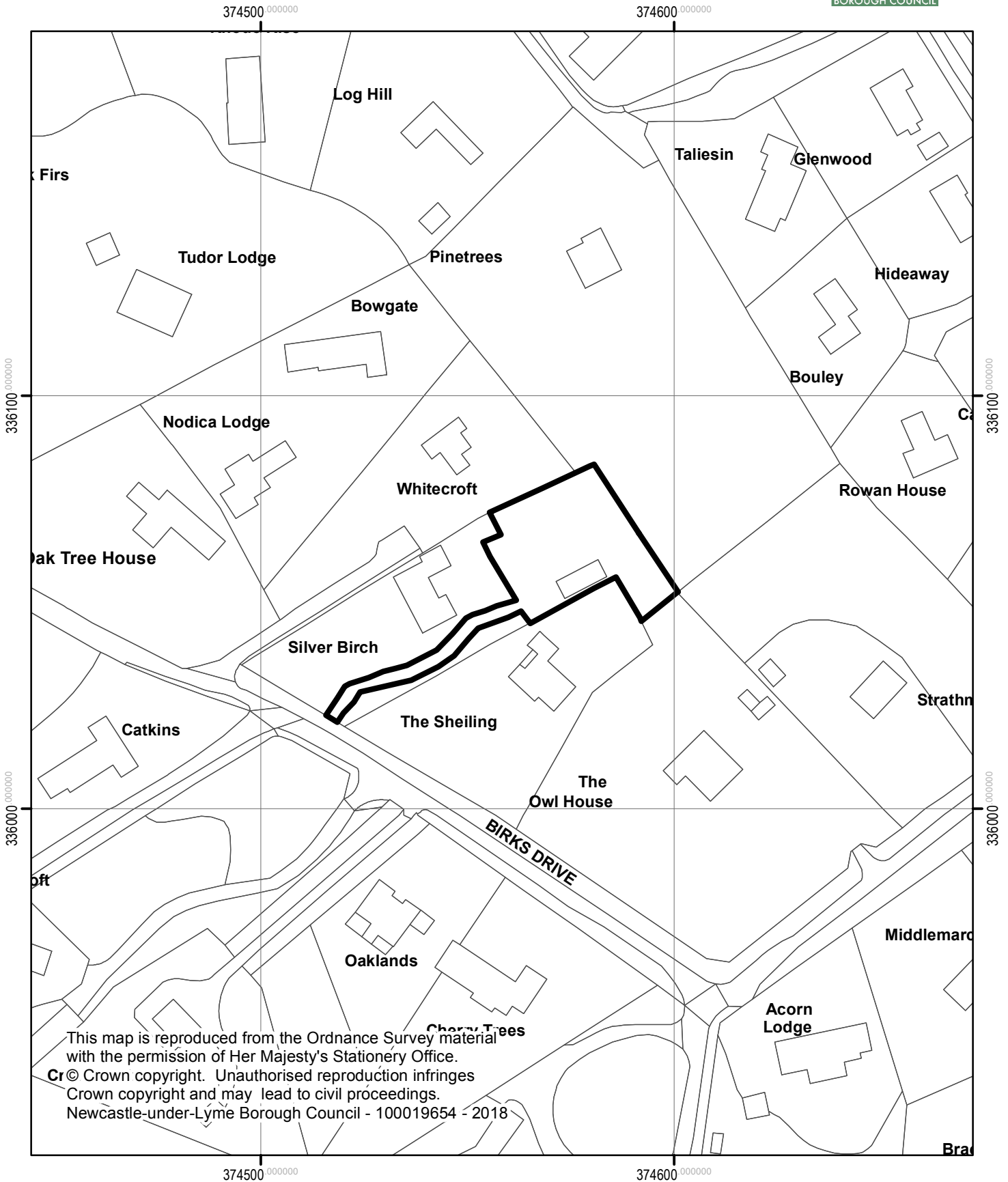
Planning files referred to  
Planning Documents referred to

Date report prepared

5<sup>th</sup> June 2019

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Silver Birch, Birks Drive  
Ashley Heath, Market Drayton, TF9 4PX



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**87 ST BERNARDS ROAD & LAND ADJACENT 2 VIGGARS PLACE**  
**ASPIRE HOUSING**

**19/00065/FUL**

The demolition of chip shop and first floor flat and the erection of 4 flats for affordable rent.

The site lies within the Urban Area of Newcastle under Lyme as defined on the Local Development Framework Proposals Map.

The development has been brought to the Planning Committee for determination taking into account a signed petition objecting to the development with over 1000 signatories.

**The 8 week period for the determination of this application expired on the 26<sup>th</sup> March 2019. Agreement to extend the determination period expired on the 19<sup>th</sup> April.**

**RECOMMENDATION**

**REFUSE for the following reasons:-**

**1. The design of the development is out of keeping with the appearance of the area and fails to improve the street scene. The proposal would therefore be contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policies R3 and R12 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document, and the aims and objectives of the National Planning Policy Framework (2019).**

**2. There is no evidence to sufficiently conclude an attractive tree of significant amenity value will be unharmed by the layout of the development. The proposal would therefore be contrary to Policy N12 of the Newcastle under Lyme Local Plan 2011 and the aims and objectives of the National Planning Policy Framework (2019).**

**Reason for Recommendation**

The site is in a sustainable location where the broad principle of new housing can be accepted. There are also benefits to allowing additional new housing on the site– namely boosting local housing supply as well as the related economic and social advantages new and affordable housing brings to the area. Moreover it is considered that off road parking provision associated to the scheme and subsequent highway safety impacts are satisfactory. However the design of the development is not considered to integrate successfully with the character of the area or take advantage of the scope available to improve the visual appearance of the area and it has not been demonstrated that the proposal would not result in harm to, or loss of, visually significant trees.

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

There are fundamental design concerns to the proposal as well as concerns relating to the successful retention of visually significant trees. The appropriate course of action is therefore to refuse planning permission.

**Key Issues**

The development entails the construction of 4 No. 1 bedroom flats. The development is two storeys in height. The site measures 773 square metres. The site is within the urban area of Newcastle under Lyme as defined on the Local Development Framework Proposals Map of the Local Plan.

Although the Landscape Development Section has requested a financial contribution of £4,933 per dwelling towards public open space improvements and maintenance, on 26th February 2019 it was resolved that the Local Planning Authority should cease to apply the policy of seeking public open space contributions in respect of developments of 10 or less dwellings, other in the circumstances expressly stated as possible in the PPG. Such circumstances don't apply in this case. It is no longer a local policy requirement to secure a financial contribution to public open space for this development and therefore, the main issues for consideration in this application are;

1. Is the principle of residential use acceptable in this location?
2. Is the design and appearance of the development acceptable?
3. Is the impact to neighbouring living conditions acceptable?
4. The impact to trees
5. What is the impact to highway safety and is it acceptable?

1. Is the principle of residential use acceptable in this location?

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

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. 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.

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 redevelopment of the site would entail the efficient re-use of previously developed land in a location where the Development Plan supports new housing as well as new affordable housing provision. The site is within a highly sustainable urban location (highlighted as such within the Core Spatial Strategy) within a short walking distance of local services and access to regular public transportation to the Town Centre and beyond. Regard is also paid to the social and economic benefits of additional affordable housing in the Borough. In addition the chip shop business presently on the site is not protected in any specific way to prevent alternative uses from being considered or to prevent its loss. There is a presumption in favour of residential development on this site unless the adverse impact of granting permission outweighs other planning considerations.

2. Is the design and appearance of the development acceptable?

Paragraph 124 of the 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.

Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape and landscape including its rural setting and the settlement pattern created by the hierarchy of centres. Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document provides further detailed guidance on design matters in tandem with CSP1.

The site lies within a residential area where two storey semi-detached properties and terraced housing dominates. The site is at the junction of Viggars Place and St Bernard's Road. There are tall mature trees in the street scene as well as hedgerow which have an attractive character that contribute to the appearance of the area.

The development does seek to respond to the road junction it fronts onto by way of a bespoke gable projection with a balcony area set at an angle to the remainder of the building. However it is not considered that the appearance of the development will successfully integrate with the appearance of the neighbouring properties which have a strong uniform appearance even when taking into consideration that there is scope for visual improvement through amendment to the treatment of the façades, landscaping and the form of the building itself. The view taken is that an alternative design should therefore be considered by the applicant for this visually prominent location.

### 3. Would the impact to trees be acceptable?

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

There is a large attractive Lime Tree within the application site boundary which is impacted upon by the proposed parking bays serving the development. The Landscape Development Section advises that the tree could be damaged by this provision and as a result objects to the development on the information presently submitted. The view taken is that the applicant has failed to demonstrate that the layout will not lead to the loss of a visually significant tree where layout alteration may be the only realistic way of dealing with this specific concern.

### 4. Is the impact to neighbouring living conditions acceptable?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance matters such as light, privacy and outlook. An acceptable level of separation is achieved between the development and neighbouring properties in accordance with the SPG, bearing in mind the intervening roads on both frontages. Moreover open space areas are within a short walking distance in addition to that provided within the site boundary. It is therefore considered that an acceptable level of amenity would be achieved.

### 4. What is the impact to highway safety and is it acceptable?

The most up to date planning policy set out within the NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In 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.

Saved policy T16 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 NPPF. The car parking standards set out in the Appendix to the Local Plan state that 1 bedroom properties are advised to provide one parking space plus 1 additional visitor space for every three units erected.

The site is in a very sustainable urban location where off road parking can be secured and consequently the Highway Authority do not consider the development will result in on street parking problems or other safety issues in the surrounding area. Subject to the conditions recommended by them the impact to highway safety would be acceptable.

## APPENDIX

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

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

Policy SP1	Spatial principles of Targeted Regeneration
Policy SP3	Spatial principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change

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

Policy H1	Residential development: sustainable location and protection of the countryside
Policy T16	Development – General parking requirements
Policy T18	Development servicing requirements
Policy N12:	Development and the Protection of Trees
Policy N13:	Felling and Pruning of Trees

### Other Material Considerations

[National Planning Policy Framework \(2019\)](#)

[Planning Practice Guidance \(PPG\) \(2019\)](#)

[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 \(September 2007\)](#)

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

#### Planning History

None considered relevant.

#### Views of Consultees

The **Highway Authority** has no objections subject to:-

1. The development not being brought into use until parking and access have been provided and thereafter retained for the life of the development.
2. Prior to the first occupation of the dwellings the access drives being built with surface water drainage provision and thereafter retained.
3. The prior approval and implementation of a Construction Management Plan.

The **Coal Authority** acknowledges the site has been subject to historic coal mining but has no objections.

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

1. Construction activities which are audible beyond the site boundary, including deliveries, ground works and earth movements, being restricted to the following days and times:
  - 08:00 – 18:00 Monday to Friday
  - 08:00 – 13:00 Saturday
  - Construction shall not be undertaken on a Sunday or a public holiday.
2. The provision of an electric vehicle charging point for one parking space.
3. Imposition of contaminated land conditions.

The **Landscape Development Section** objects to the layout in its current form. They are concerned that the existing lime tree T6, categorised as 'A' in the tree survey, will be compromised by the proposed vehicular parking. Changes in level within its BS5837:2012 Root Protection Area would not be permissible and any surfacing, edging or other works must be 'no dig'. New surfacing should not take more than 20% of the unsurfaced areas within the trees RPA. The necessary dropped kerbs and upgrading the surfacing of the existing footpath to facilitate vehicular access would also compromise tree roots.

The sycamore tree T5, categorised as 'B', is a visually prominent and important tree and should be retained. Replacement trees should be planted to mitigate the loss of all other trees.

They also request a contribution by the developer for capital development/improvement of offsite open space. As the development is for four single bedroom units, the play area element (£512) and a proportionate amount of the maintenance contribution (£134) should be deducted from the total. This amounts to £3915 for capital and £1018 for maintenance totalling £4933 pre dwelling. This will be used for keep fit equipment and tree planting at the Wammy Neighbourhood Park which is approximately 100m away. Permission should be subject to submission of a detailed landscaping scheme.

### Representations

A signed petition of some 1,306 signatories has been submitted objecting to the development along with 7 letters of representation raising concerns relating to:-

- The closure of the chip shop is a loss to local community service provision which people rely on.
- Exacerbation of parking problems for parked vehicles in the road.
- Access to the site for emergency vehicles will be difficult.
- Flats are not appropriate to the area and family housing would be a better option.
- Anti-social behaviour from tenants.
- Adequacy of access, turning and parking provision and deliveries to the site will be disruptive to highway safety as will deliveries.
- The development will be an eye sore.

### Applicant/agent's submission

Application forms and indicative plans have been submitted along with an ecological appraisal; tree schedule and tree constraints plan; and phase 1 desk study. The application documents are available for via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/0065/FUL>

### Background Papers

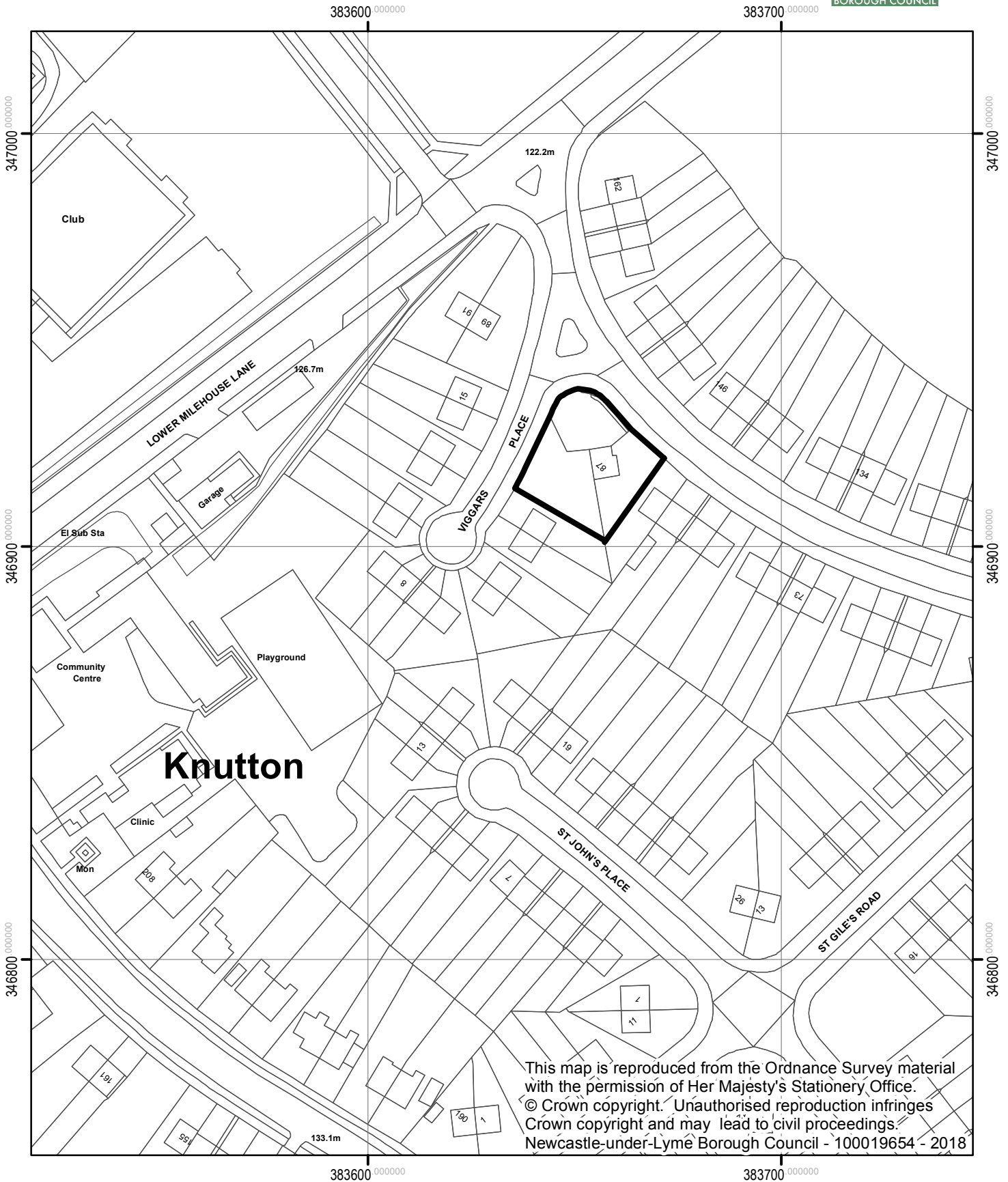
Planning File.  
Planning Documents referred to.

### Date Report Prepared

5<sup>th</sup> June 2019.

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87 St Bernards Road And Land Adjacent 2 Viggars Place,  
Knutton



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**9 RUSSELL STREET, WOLSTANTON**  
**MERCIA GAS LTD**

**19/00352/FUL**

The application is for the demolition of existing workshop buildings and the construction of a 5 unit apartment block, achieved through the conversion and extension of number 9 Russell Street.

A mixture of 3, 2 bedroom apartments and 2, 1 bedroom apartments are proposed.

The site lies within the Urban Area of Newcastle under Lyme as defined on the Local Development Framework Proposals Map.

The development has been called to the Planning Committee for determination due to resident's concerns relating to the development not being in keeping with the area and insufficient car parking space for the proposed flats.

**The 8 week period for the determination of this application expires on the 4<sup>th</sup> July 2019.**

## **RECOMMENDATION**

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

- 1. Time limit.**
- 2. Plans.**
- 3. Prior approval of external facing materials (including windows, doors and rainwater goods)**
- 4. Prior approval of soft and hard landscaping.**
- 5. Restrictions on hours of construction.**
- 6. Approval of external lighting.**
- 7. Provision of an electric vehicle charging point.**
- 8. The development shall not be brought into use until the existing Wellington Street access, within the limits of the public highway, has been revised in accordance with the approved plans and completed as a vehicular dropped crossing.**
- 9. The development shall not be brought into use until the existing Russell Street has been increased in width by a minimum 1.8m.**
- 10. The development shall not to be brought into use until any length of existing Wellington Street made redundant as a consequence of the development hereby permitted is permanently closed and reinstated as footway in accordance with details to be approved.**
- 11. The development shall not be brought into use until the parking areas have been provided which shall thereafter be retained at all times for their designated purpose.**
- 12. The development shall not be brought into use until secure weatherproof cycle parking facility has been provided in accordance with details to be approved, such facility thereafter retained.**

## **Reason for Recommendation**

The site is in a sustainable location where the broad principle of new housing can be accepted. There are also benefits to allowing additional new housing on the site— namely boosting local housing supply as well as the related economic advantages new housing brings to the area. Moreover the scale, design, appearance of the development would not be visually harmful to the immediate locality it would be viewed within and would provide acceptable residential amenity levels, subject to conditions. It is considered that highway safety, parking and waste collection concerns can be appropriately addressed through the

provision of on-site parking and bin collection details as per the submitted plans and appropriately worded conditions.

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

The application follows a withdrawn and refused scheme where problems in securing permission have been subject to ongoing negotiation. The current proposal addresses previous concerns to the proposal.

**Key Issues**

Full planning permission is sought for the demolition of existing workshop buildings and the construction of a 5 unit apartment block, achieved through the conversion and extension of number 9 Russell Street. 3, 2 bedroom apartments and 2, 1 bedroom apartments are proposed. The extension proposed measures approximately 8 metres by 6 metres in footprint by around 8.5 metres in overall roof ridge height.

The application follows the refusal of a previous scheme under application 19/00029/FUL for the same number of units which was refused on the grounds that there is insufficient space within the site to accommodate an appropriate level of offsite car parking for the number of units proposed in addition to providing appropriate pedestrian access, bin storage and access for collection. As a result the development would negatively impact upon local on street car parking problems and create further highway safety. The application has been made to further examine this reason for refusal against the layout now proposed which allows additional space to provide parking and bin storage.

There has been no material change in circumstances that would justify reconsideration of other issues that were considered when application 19/00029/FUL was determined and were found not to be of concern.

The key issue to consider therefore is :-

1. What is the impact to highway safety and is it acceptable?

**1. What is the impact to highway safety and is it acceptable?**

The most up to date planning policy (contained within the Framework) indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In 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.

Saved policy T16 of the Newcastle-under-Lyme Local Plan (NLP) 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, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets. The car parking standards set out in the Appendix to the Local Plan state that 2 or 3 bedroom properties should provide a maximum of 2 off road parking spaces. 1 bedroom properties are advised to provide one parking space plus 1 additional visitor space for every three units erected.

A total of 5 off road parking spaces are shown on plan to serve the development along with cycle storage and room for bin storage.

The site is in a very sustainable urban location and consequently the Highway Authority in dealing with previous applications to this site consider that the provision of 5 adequately sized

off road car parking spaces will not result in on street parking problems in the surrounding area.

The layout drawings show that 5 appropriately sized parking bays for vehicles (measuring 2.4 metres by 4.8 metres in dimensions as the minimum advised standard where bays shown on the submitted plans are slightly larger) are to serve the development along with cycle parking and bin storage area. Russell Street is a location where owing to the number of terraced properties, there is heavy reliance upon on-street parking and a shortfall of any less than 5 workable parking spaces would lead to a detrimental impact to highway and road user safety as would, accepting proposals with deficient bin collection access provision to serve the development. However all of these aspects can be provided on site following further measurement undertaken following the decision previous application which has demonstrated that there is more space available on the site than was known at the time that the decision was reached on that application.

## APPENDIX

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

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

Policy SP1	Spatial principles of Targeted Regeneration
Policy SP3	Spatial principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open space, sport, recreation
Policy CSP10	Planning Obligations

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

Policy H1	Residential development: sustainable location and protection of the countryside
Policy T16	Development – General parking requirements
Policy T18	Development servicing requirements
Policy C4	Open Space in New Housing Areas

### Other Material Considerations

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

[National Planning Policy Framework](#) (July 2019)  
[Planning Practice Guidance](#) (PPG) (March 2019)

#### 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)

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

#### Planning History

19/00029/FUL	Demolition of existing workshops to 9 Russell Street and the construction of a new apartment block.	Refused	2019
18/00459/FUL	Demolition of an existing residential property and the construction of 7 no of 2 bedroom apartments.	Withdrawn	2008
N8337	Shop extension and formation of storage area	Permitted	1980
NNB10425	Alterations and extensions to form double garage, W.Cs, kitchen, dining room and bathroom	Permitted	1973
NNB03938	Alterations to shop premises, as described in your application dated 26th April, 1958.	Permitted	1973

#### Views of Consultees

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

1. The development shall not be brought into use until the existing Wellington Street access, within the limits of the public highway, has been revised in accordance with the approved plans and completed as a vehicular dropped crossing.

2. The development shall not be brought into use until the existing Russell Street has been increased in width by a minimum 1.8m.
3. The development shall not to be brought into use until any length of existing Wellington Street made redundant as a consequence of the development hereby permitted is permanently closed and reinstated as footway in accordance with details to be approved.
4. The development shall not be brought into use until the parking areas have been provided which shall thereafter be retained at all times for their designated purpose.
5. The development shall not be brought into use until secure weatherproof cycle parking facility has been provided in accordance with details to be approved, such facility thereafter retained

**Waste Management** indicates, as in their comments on the previous application, that the provision of a path linking the pavement to the storage area has been achieved by simply narrowing the car park spaces. It is unclear how this would translate on the ground into a wider path that would be guaranteed to provide a clear access on collection day. No path width measurement is provided. There would also need to be a drop kerb in order to get bins from pavement height to road height for emptying.

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

1. The construction and demolition phases of the development no machinery shall be operated, no process shall be carried out and no construction traffic shall enter or leave the site between the hours of 18.00 hours and 07.00 hours Monday to Friday, and not at any time on Sundays, Bank Holidays or after 13.00 hours on any Saturday.
2. Approval of external lighting.
3. Provision of electric vehicle charging points.

**Landscape Development Section** has no objection subject to detailed landscaping proposals.

#### Representations

2 letters of representation have been received raising the following concerns:-

- There is insufficient detail to confirm if land contamination is a problem.
- No bat survey has been provided and bats are suspected to be in the buildings.
- No public open space has been provided or landscape proposals.
- No air quality assessment has been provided.
- The site is within a Coal Mining Referral Area.
- It is unclear how foul water will be dealt with.
- Off road car parking is inadequate. The development will aggravate parking issues in the area.
- No proposals have been forwarded for waste collection.
- The character of the area will be eroded by the development.
- The development has the potential to reduce the privacy of neighbouring occupiers for habitable rooms.

#### Applicant/agent's submission

Application forms and indicative plans have been submitted. The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00352/FUL>

#### **Background Papers**

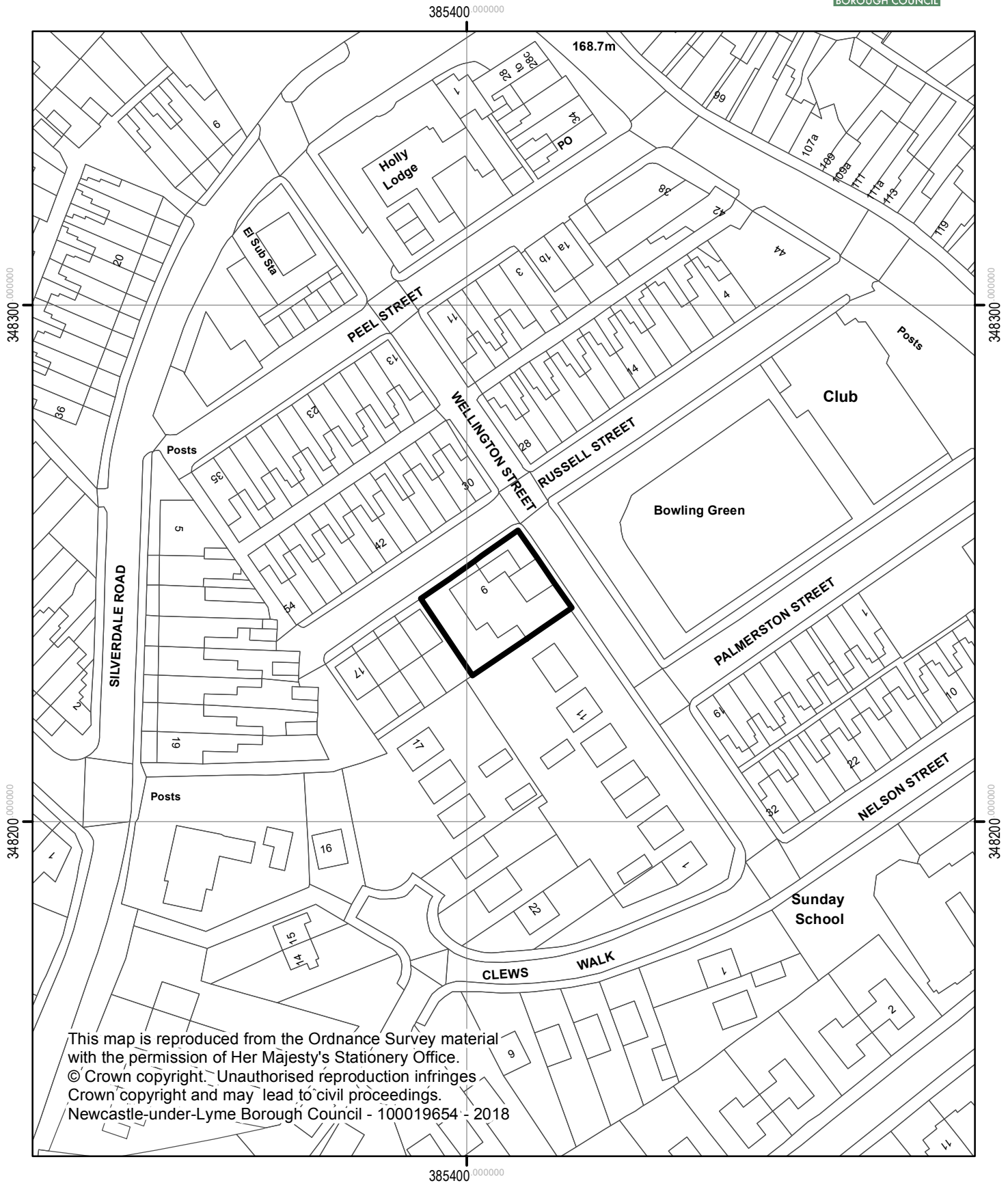
Planning File.  
Planning Documents referred to.

#### **Date Report Prepared**

5<sup>th</sup> June 2019.

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9 Russell Street, Wolstanton  
Newcastle-under-Lyme, ST5 8BL



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**LAND TO THE WEST OF NEWCASTLE ROAD (A53), BLACKBROOK**  
**MR D A AND T CLEE, J WILSON & M LEE**

**19/00332/FUL**

The application seeks planning permission for the change of use of the land for the siting of caravans for residential purposes for 4 gypsy pitches involving the formation of hardsurfacing, the construction of 4 utility buildings and the installation of a package sewage treatment plant.

The site in question measures approximately 0.24 hectares, and has been associated with Blackbrook nurseries and contains a glasshouse.

The application site is located off Newcastle Road (A53) and is accessed via an existing field gate. The site is located in an area of Open Countryside and an Area of Landscape Enhancement as defined within the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors as the application is effectively (for) a housing development and as such needs to be fully considered by the Planning Committee.

**The statutory 8 week determination period for this application expires on 28<sup>th</sup> June 2019.**

**RECOMMENDATION**

**REFUSE for the following reasons;**

- 1. The proposed development is in an unsuitable location within the open countryside away from services and facilities and without safe and convenient access to public transport. Whilst the Local Planning Authority recognises that there is an identified and unmet need for a further gypsy and traveller pitch in the period between 2014 and 2019, and a further 6 pitches in the period between 2019 and 2034 the benefits arising from the proposed development do not outweigh identified harm. The proposed development would therefore be contrary to Policy CSP7 of the Core Strategy and national policy within the Planning Policy for Traveller Sites, saved policy N20 of the Local Plan and the guidance of the National Planning Policy Framework.**
- 2. The applicant has failed to demonstrate that the existing access is suitable for the proposed development and that the existing visibility splays are appropriate for the speed of traffic and that the development will not, therefore, result in an adverse impact on highway safety. As such the proposal is contrary to the guidance of the National Planning Policy Framework.**
- 3. The applicant has failed to demonstrate that the residents of the site will not be adversely affected by the impact of noise from the A53 and the nearby pumping station and as such the proposal is contrary to the guidance of the National Planning Policy Framework.**
- 4. The applicant has failed to demonstrate that the proposed development will not have an adverse impact on Wellings, a critical groundwater source used for public water supply to the local area and is vulnerable to surface influences, contrary to the guidance of the National Planning Policy Framework.**

**Reason for recommendation**

The application site is not located in a sustainable location. The applicant has failed to demonstrate the proposed access would have sufficient access, the potential noise impact upon the future occupiers has not been fully considered, and the applicant has failed to demonstrate that the proposed development will not have an adverse impact on a groundwater source. The provision of gypsy and traveller pitches is a clear benefit of the proposal. However, whilst the requirement for sites and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm even when the personal need of the applicants for a residential site is taken into consideration.

### **Statement as to how the Local Planning Authority has worked 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 full planning permission for the change of use of the land for the siting of 4 gypsy pitches, and facilitating development including hardstanding, package sewage treatment plan and utility buildings (measuring 4m by 5m, with a maximum height of 3.56m), on the site located on Newcastle Road.

The application site measures approximately 0.24 hectares and until recently has been used to support a small scale nursery business.

The application site is located in the open countryside, and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map.

Reference has been made, within representations and consultation responses, to conflict with the emerging Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan (NDP). The comments received refer to existing provision of a large, established caravan park within the NDP area, at nearby Stableford and the desire to preserve currently undeveloped parts of the unspoiled rural landscape by identifying sustainable future residential development area which this application site falls well outside of.

The relevant policies of the NDP are identified as follows:

- NE1, Natural Environment which indicates that new development will be supported that complements the landscape setting and character of the area, preserves or enhances and does not cause significant harm or degradation to the special rural character and ecological and environmental features of the area including the Principal Aquifer lying beneath the majority of the Neighbourhood Area.
- DC2, Sustainable Design which indicates that all new development will be supported provided that it, amongst other things, complements local landscape in terms of urban and built form and maintains and enhances the character and appearance of the landscape.
- HG1, New Housing, which indicates that new housing will be supported in sustainable locations within the village envelope of Baldwin's Gate; as part of conversions of non-designated heritage assets; and as replacement dwellings; limited infill housing or within a built frontage of existing dwellings. It indicates that to be in a sustainable location, development must:
  - Be supported by adequate infrastructure, or provide any necessary infrastructure improvements as part of the development;
  - Not encroach into the open countryside;
  - Not involve the loss of best and most versatile agricultural land;
  - Avoid encroaching onto or impacting on sensitive landscapes and habitats;
  - Not involve the loss of any important community facility

The proposal is not in compliance with any of these policies given its location in the open countryside and as it is not supported by adequate infrastructure.

An emerging neighbourhood plan may be a material consideration and Paragraph 48 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking. It states as follows:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The NDP has now been submitted and the opportunity to submit representations has now passed, it is known that there have been objections/comments on all of the policies referred to above, and it is not possible yet to be absolutely certain whether or not any policy within the emerging Neighbourhood Plan will be viewed favourably by the Examiner, in terms of its compliance with what are termed the Basic Conditions and the other criteria the Examiner will need to consider. As such it remains that the policies cannot be given much weight.

Severn Trent Water has advised that the proposed development has a potential impact upon providing sustainable sources of groundwater due to the existence of an aquifer (Wellings) within 100m of the proposed development boundary. They advise that a risk assessment is required to consider the potential impacts to this groundwater source and adequate mitigation. They go on to say that control measures must be adhered to during construction and through the whole lifespan of the drainage scheme to ensure the protection of the sustainable groundwater source which should be secured by condition.

A risk assessment has not been provided and as such the applicant has not demonstrated what risks the development poses to this groundwater source and whether adequate mitigation can be secured to minimise any identified risks to an acceptable level.

Protected species surveys were submitted as part of the application, and offer mitigation with regard to protected species evident on site. Subject to the identified mitigation measures being implemented, which could be secured by condition, it is considered that the proposal would not have an unacceptable impact on protected species.

This report will address the following matters: -

- Relevant policy
- Need and supply
- Impact on Character and Appearance
- Residential Amenity
- Highway Safety
- Sustainability
- Human rights and safeguarding of children
- Planning balance

#### Relevant policy

National planning policy regarding traveller site is set out in Planning Policy for Traveller Sites (PPTS) which should be read in conjunction with the National Planning Policy Framework.

The NPPF, at paragraph 78, advises that housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

At paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things;

- Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils.
- Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

- Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 10(a) of Policy B of the PPTS (Planning Policy for Traveller Sites) says that local planning authorities (LPAs), in producing their Local Plan, should identify and update annually, a supply of deliverable sites sufficient to provide five years' worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

Paragraph 13 of the Planning Policy for Traveller Sites (PPTS) states local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally, and that their planning policies should:

- Promote peaceful and integrated co-existence between the site and the local community;
- Promote, in collaboration with commissioners of health services, access to appropriate health services;
- Ensure that children can attend school on a regular basis;
- Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;
- Avoid placing undue pressure on local infrastructure and services;
- Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;
- Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

A number of paragraphs of policy H of the PPTS (Determining planning applications for traveller sites) are relevant to the determination of this application. Paragraph 22 indicates that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. At paragraph 23 it says that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the NPPF as well as policy H of the PPTS.

Paragraph 24 says that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- the existing level of provision and need for sites;
- the availability (or lack) of alternative accommodation for the applicants;
- other personal circumstances of the applicant;
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
- that they should determine applications for sites from any travellers and not just those with local connections.

Paragraph 25 says that LPAs should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

LPAs should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

Paragraph 26 requires LPAs to attach weight to the following matters:

- a) Effective use of previously developed (brownfield), untidy or derelict land;
- b) Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and
- d) Not enclosing with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

Policy CSP7 of the Core Strategy states that pitches will be provided on sites that provide good access to shops, education, healthcare facilities and other essential services. Safe and convenient access should also be provided to public transport and the highway network.

Saved Local Plan policy N20 seeks to ensure that development within areas of Landscape Enhancement will enhance the quality of the local landscape and would not act to erode its quality or appearance.

#### Need and Supply

As indicated above, the PPTS requires local authorities to identify and update annually, a five years' supply of sites for gypsies, travellers and travelling showpersons.

The Borough Council and Stoke-on-Trent City Council, together with Stafford Borough Council and Staffordshire Moorlands District Council, commissioned a Joint Gypsy and Traveller and Travelling Showperson Accommodation Assessment in 2015 (GTAA). The Assessment provides updated evidence to identify the future accommodation needs of gypsies and travellers and travelling showpersons across the four local authority areas. For Newcastle-under-Lyme, the study identifies a shortfall of one pitch between 2014 and 2019. A further six pitches are required between 2019 and 2034, bringing the total requirement to seven permanent pitches. In addition to the provision of permanent pitches, the study identifies the requirement for five transit pitches across Newcastle-under-Lyme between 2015/16 and 2018/19.

As no sites have, as yet, been identified or allocated to meet the identified need it has to be concluded that the Council does not have a five year supply. The shortfall is, however, limited.

#### Character and appearance

As referred to above, there is a very strict limitation on new traveller site development in the open countryside that is away from existing settlements as set out in Policy H of the PPTS (para 25). In addition, also referred to above, CSS Policy CSP7 seeks to ensure that the development would not adversely affect local landscapes and environments.

The site was granted planning consent in the 1990s for use as a wholesale nursery, however from visiting the site it is apparent that the built form in relation to this use was minimal. Part of the site that includes the greenhouse and 'portacabin' type structure could be argued to be previously developed land (PDL) although the planning history suggests that its use does not fall with the definition of PDL as set out in the Glossary to the 2019 NPPF. Moreover, the majority of the site remains open with no structures or hardsurfacing. It is noted that the proposed development would largely be located between and including where the existing structures are located.

The clearance of the dilapidated building and glasshouse will offer some visual improvement to the site; however the introduction of mobile homes and touring caravans on four pitches as proposed with the associated development including hardstanding for pitches and the access track will result in some visual harm to this relatively open rural area over and above that which presently exists on site.

The proposal is therefore considered to conflict with policies CSP7, saved NLP policy N20 and national policy in the PPTS and NPPF, particularly paragraph 170 given that it damages the intrinsic character and beauty of the countryside.

### Residential Amenity

Having regard to the scale of the development and distance from neighbouring properties no significant amenity concerns are raised with regard to existing residents.

Environmental Health previously commented on the proposal noting that insufficient information has been submitted with the application relating to the impact to occupiers of the site arising from noise from the A53 and pumping station in close proximity of the site. The current application is not supported by any assessment of noise impact and as such their concerns have not been addressed.

As such, the proposal cannot be considered to be compliant with guidance within the NPPF as insufficient information has been submitted to date to enable such a conclusion to be reached.

### Highways

The Highway Authority (HA) was consulted as part of the application process. They recommend that the application is refused on the basis that the application does not include a scaled drawing detailing the visibility splays at the access to the site. They indicate that this application, unlike the previously withdrawn application, includes a speed survey and the 85<sup>th</sup> percentile recorded speeds are 51mph southbound and 45mph northbound. They also note that the use of private vehicles is likely to be the preferred method of transport for the future occupiers of the site, and the absence of footways on the A53.

The applicant has been advised of the need to provide a drawing detailing the visibility splay and if such a plan is received it will be reported with the further comments of the HA if they are available.

### Sustainability

The PPTS makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. Other factors such as economic and social considerations are also important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampments. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

The application site is located in Blackbrook on Newcastle Road which is 3.7km from Baldwins Gate, the nearest established village with services and facilities service centre.

Newcastle Road (A53) is a national speed limit road, and there are no footpaths from the site to the nearest bus stop thereby making access to public transport safe and convenient. The A53 itself is a fast, busy road, and as such it is considered fair to assume that most movements to and from the site would be by private vehicle, however they are likely to be low in number due to the number of pitches proposed on site. Given the assessment, it is considered that the proposal would be in conflict of the PPTS and Policy CSP7 of the Core Strategy the site doesn't provide good access to shops, education, healthcare facilities and other essential services or safe and convenient access to public transport.

### Human rights and safeguarding of children

Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the

Human Rights Act 1998 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children.

Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The submission indicates that there are 11 children within the applicants' families one of which is physically disabled, and another being treated for leukaemia. The information provided does not, however, suggest, that the best interests of the children could not be met other than on this site and therefore it is considered the issues of human rights or the safeguarding of children should only be given limited weight in the determination of this application.

#### Planning balance

Having regard to the rural location of the site within the open countryside, the distance from facilities, and the absence of safe and convenient access to public transport, the site is not considered to be in a sustainable or suitable location for the proposed development. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy.

Insufficient information has been submitted relating to the visibility of the existing access to the site, and potential noise impacts upon future occupiers caused by the A53 and nearby pumping station. There will also be an adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal.

The provision of gypsy and traveller pitches is a clear benefit of the proposal. However, whilst the requirement for sites and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm even when the personal need of the applicants for a residential site is taken into consideration.

Weighing the harm against the matters in favour of the proposal and the potential imposition of conditions the development would not be acceptable even for a temporary period. The proposal is therefore considered to be contrary to Policy CSP7 of the Core Strategy, Policy H of the Planning Policy for Traveller Sites, and the NPPF particularly paragraphs 78 and 170.

## **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 Strategy  
Policy CSP1: Design Quality  
Policy CSP7: Gypsy and Travellers

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

Policy H1: Residential development: sustainable location and protection of the countryside  
Policy N2: Development and nature conservation - site surveys  
Policy N3: Development and nature conservation – protection and enhancement measures.  
Policy N20: Areas of Landscape Enhancement

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

[National Planning Policy Framework \(NPPF\) \(2019\)](#)

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

[Planning Policy for Traveller Sites \(August 2015\)](#)

[Newcastle-under-Lyme, Stoke-on-Trent, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015](#)

[Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan](#)

Human Rights Act 1998

Relevant Planning History

N20697 - The erection of a wholesale nursery including the erection of polythene tunnel and implement shed, plus improving access to A53 and construction of hardstanding. Approved 1991

18/00491/FUL - Change of use of the land for the siting of caravans for residential purposes for 4 no. gypsy pitches. WITHDRAWN

Views of Consultees

**Whitmore Parish Council** objects to the application, which they have looked at as if it were for four permanent dwellings, on the following grounds;

- Greenfield site in a totally unsustainable location with inadequate service provision or safe footway access to public transport.
- The proposed access to the site is directly from the A53 at a point that has standing traffic for most of each day in close proximity to the heavily trafficked A51/53 junction which is already heavily congested that will only worsen with HS2 traffic.
- Does not accord with policy CSP7 of the Core Spatial Strategy
- No details of how foul sewerage or waste will be disposed of other than a package treatment plant
- Proposed domestic use is an unwarranted change of use

**Maer and Aston Parish Council** have considered the application on the basis that it involves 4 residential properties. They object to the application on the following grounds;

- Limited access to services such as schools and shops given its location distant from villages.



- Limited access to public transport and lack of pavement resulting in the need to walk on the roadside and cross a difficult and dangerous junction to access the bus stop Traffic exiting the site to turn right on the A53 would be dangerous.
- As such the site is unsustainable as demonstrated in a similar application for up to 8 houses in Hill Chorlton 14/00875/OUT which was dismissed at appeal
- Worsen traffic, particularly when considering the impact of HS2 vehicles.
- The submitted information suggesting that there is a lack of wildlife on the site is challenged.
- Site contains greenhouse, however it is a greenfield, not a brownfield, site
- The identified pitch shortfall within the Newcastle-under-Lyme, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015 is 1 with the total projection to 2029 being just 2.
- The statement mentions 'doubling up' as standard practice which suggests that there would be many more people on the site.
- There is already a caravan site just a couple of miles from the proposed site at Stableford.
- The application should be refused as it is contrary to policy CSP7 and many of the policies in the emerging Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan. The latest 5 year housing land supply also suggests this proposed development is not only not sustainable but unnecessary.
- Planning Committee should visit the site to view the inappropriateness of this site for the level of traffic, lack of services and unsustainability of this proposal.

**Loggerheads Parish Council** objects to the application on the following grounds;

- This is a greenfield site situated in the open countryside, remote from any available services and with no footway access to public transport and so is unsustainable.
- The proposed access to the site is directly from the A53 at a point that has standing traffic.
- Does not comply with policy CSP7

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

- No detail of the planting to be carried out is provided. Permission should be subject to submission of a landscaping scheme incorporating existing planting and tree, shrub and hedge planting to provide screening to the development and to integrate the proposals with the surrounding countryside.
- The proposal to allow excavation works within Root Protection Areas (RPAs) is not acceptable. Any surfacing within RPAs should be of 'not dig' construction. All other recommendations of the tree report should be followed. Permission should be subject to submission of a detailed, dimensioned Tree Protection Plan and details for all special engineering within RPAs and other relevant construction details.

The **Highway Authority** that the application should be refused as there is insufficient information to determine the proposal at this stage from a transport and highway safety perspective. A scaled drawing detailing the visibility splays is required.

The views of the **Environmental Health Division** with regard to environmental constraints and loss of amenity to future occupiers have not been received. When commenting upon the previously withdrawn application they objected to the application as insufficient information has been submitted to assess the application and noise impact from the surrounding road network and pumping station and its effects on amenity and also the impact of any artificial lighting installed on the site.

The Waste Water section of **Severn Trent Water** has no objections. In respect of the potential impact upon providing sustainable sources of groundwater they advise that there is a lack of detail relating to how the package treatment plant works; lack of detail relating to waste water management; no proposed management of the surface water; and there is a need to decommission the observation boreholes. Given the Wellings is a critical groundwater source used for public water supply to the local area and its vulnerability to surface influences, they would expect a risk assessment that considers the potential impacts to this groundwater source. The request that conditions are attached to ensure that adequate mitigation and control measures are adhered to both during construction and through the whole lifespan of the drainage scheme for sustainable groundwater protection.

**Cadent** states that there is apparatus in the vicinity which may be affected so developers are required to contact their Plant protection Team for approval before carrying out any works on site.

The **Staffordshire Badger Conservation Group** has not responded but in commenting on the previously withdrawn application stated that they agreed with recommendations within the ecology report, and request this is made a planning condition. Would like to ensure lighting from the development is directed away from the sett on site.

The views of **Housing Strategy** and **Planning Policy** have been sought but have not responded by the due date and as such it is assumed that they have no comments.

### Representations

62 representations, objecting to the application have been received. The concerns raised are summarised below

- The site is on the busy A53 close to the junction of two busy 'A' roads (A51/A53) with a history of accidents and queuing traffic.
- The applicant has failed to demonstrate that the existing access is suitable, that the existing visibility splays are appropriate for the speed of traffic, and that the development will not have an adverse impact on highway safety
- The site is an unsuitable location for residential development away from services and facilities, contrary to policy H1.
- There is no footpath access to the bus stop on the A51.
- The site is an inappropriate location for vulnerable young children.
- As such the proposal is contrary to policy CSP7 and national guidance
- Development of this largely greenfield site would be unsightly in this unspoilt area of countryside and would be contrary to policy N17 and N20.
- The applicant has failed to demonstrate that the residents will not be adversely affected by the impact of noise from the A53 and the nearby pumping station.
- Consideration should be given to the new Neighbourhood Development Plan (NDP) for the three local parishes. This recognises the existing provision of a large, established caravan park within the NDP area, at nearby Stableford. It also demonstrates the will of local communities to preserve currently undeveloped parts of the unspoiled rural landscape by identifying sustainable future residential development area which this application site falls well outside of.
- The site lies in the river valley on a major aquifer resulting in a risk of pollution which could be damaging to the dairy farms, pick your own fruit farms, and wildlife.
- There is no detail of the size, design of the proposed static caravans.
- There also seems to be a common practice to 'double up' during the winter period and there may be pressure to allow other caravans to park on the site.
- There is a limited shortfall in authorised pitches as identified in Newcastle-under-Lyme, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015.
- The personal circumstances of the applicant should not be taken into consideration.

### Applicant/agent's submission

The application is supported by:

- Speed survey data
- Design and Access/Planning Statement
- Preliminary Ecological Appraisal
- Gypsy Status Report
- Tree Report.

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

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00332/FUL>

Background Papers

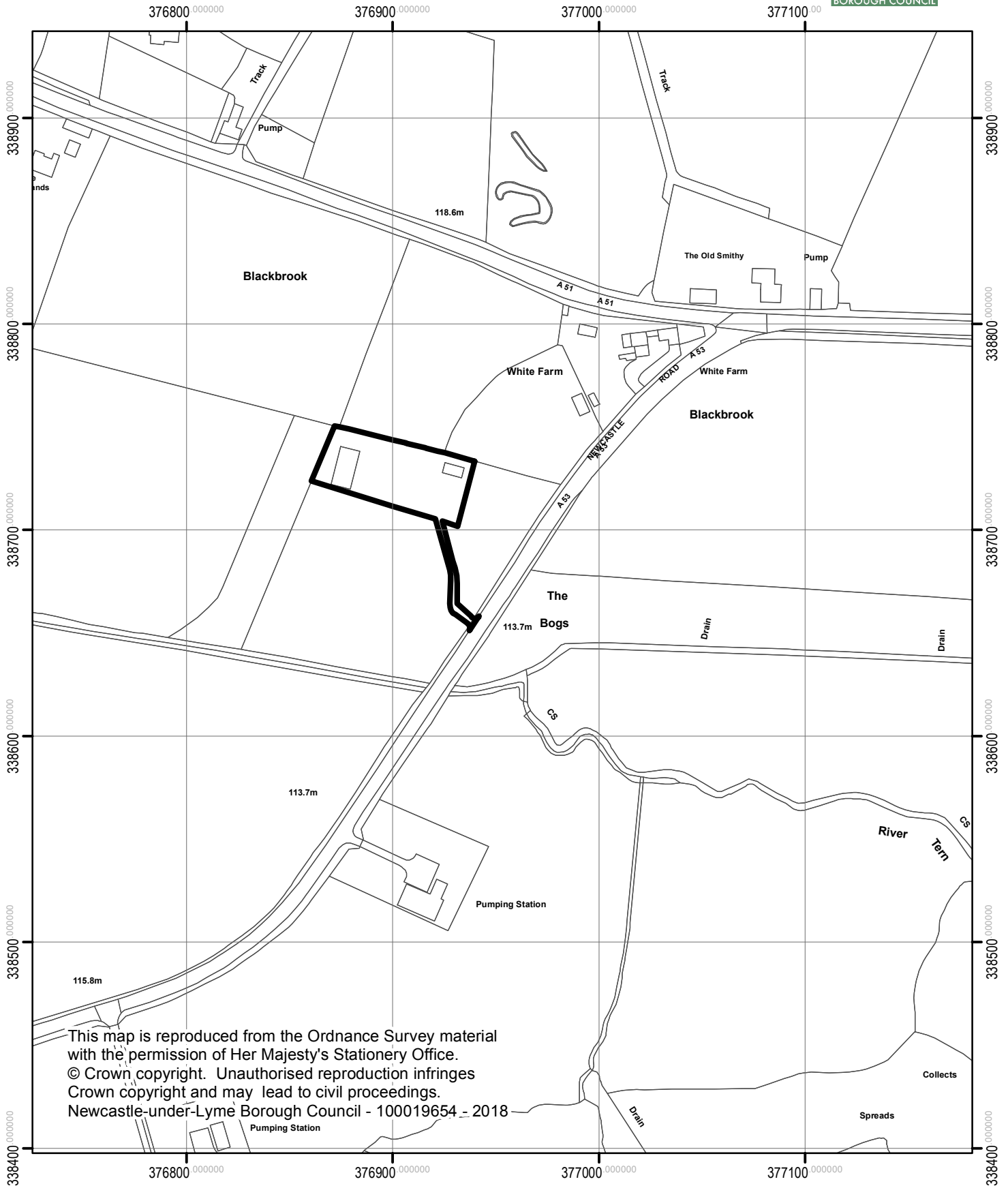
Planning File  
Development Plan

Date report prepared

6<sup>th</sup> June 2019

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**Blackbrook Nursery  
Newcastle Road, Baldwins Gate**



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Newcastle-under-Lyme Borough Council - 100019654 - 2018

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## ARTICLE 4 DIRECTION FOR MAER 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 land and require planning approval for certain minor works.

### **Recommendation**

**To agree to the making of an Article 4 Direction for Maer 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 Maer 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 Maer Conservation Area.

## **1.0 Removal of Permitted Development Rights**

- 1.1 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. 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.
- 1.2 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.
- 1.3 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.
- 1.5 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.

## **2.0 Scope of Maer Article 4 Direction**

2.1 A Conservation Area Appraisal and Management Plan has been adopted by the Council for the Maer Conservation Area as a Supplementary Planning Document. The review of the Conservation Area in 2018/19 gave consideration to controlling the removal of and erection of boundary treatments on the road frontages within the village given the stone walls play an important part in the special character of the 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. Given the fact that residents have already changed windows and doors largely to upvc and this has not been particularly harmful given the nature of the changes and location of the properties, it is not proposed to remove the right, via an Article 4 Direction, to make such changes.

2.2 The removal of front boundary hedges cannot be controlled other than under the Hedgerow Regulations which apply only in certain circumstances and involve limited considerations. It is not "development". Whilst there are controls over certain works of demolition in Conservation Areas, permission is not required to take down any wall, gate or fence which is less than 1 metre high where abutting a highway, or less than two metres high. Similarly the installation of new boundary walls, piers or fences up to a metre in height do not require any form of planning consent. With an Article 4 Direction any new walls and fences or other boundary treatments can be controlled by requiring a planning application to be submitted for consideration. Some walls are protected by their Listed Building status from demolition but elsewhere they could be protected by a Direction.

2.3 The Direction has been limited to walls which are either significant to the character and appearance of the Conservation Area, by their quality or are boundaries within the most publicly visible parts of the Area or involved in important views within the Conservation Area. In addition the Direction also aims to control the type of new boundary features which are proposed. Schedule A below sets out the specific walls and road frontages for which it is proposed to remove certain permitted development rights within part of Maer Conservation Area. A plan for the Conservation Area indicating the location of these locations is shown at Appendix 1.

2.4 It is proposed that given there is no immediate threat to local amenity in this case the Council should proceed via the use of a non-immediate Direction for Maer which could come into effect following the proposed consultation and after the required consideration of any representations that may be received.

2.5 The views of the Conservation Advisory Working Party are being obtained and will be reported to the Committee

## **3.0 Consultation**

3.1 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 property affected by the Direction. A site notice in three locations will also be placed within the Area to explain the effect of 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
- Following the consultation, consideration will be given to any representations before decided to confirm the Direction at Planning Committee on 13<sup>th</sup> August 2019.

#### 4.0 Compensation

- 4.1 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.

### Schedule A

#### Maer Conservation Area - Article 4 Direction Address Schedule

1. *The following properties and land would be affected by removal of Permitted Development rights for removal, including partial demolition, alteration and construction of boundary treatments where they would front a road*

St Peters Church, Maer Village and land north of the church and churchyard  
 The Old Vicarage, Home Farm, Haddon Lane, Maer Village  
 1, 2, 3,& 4 Maer Mews, Haddon Lane  
 Primrose Cottage, Haddon Lane  
 1(Bramble Cottage), 2, 3, 4(Beekeepers Cottage), 5(Jubilee Cottage), 6, 7, 8, 9, 10  
 Maer Village  
 The New House, Stone Cottage  
 The Old Laundry  
 Maer Village Hall  
 Holly Cottage, Maer Cottage, Bothy House, The Old Post Office  
 Gardener's Cottage  
 The Garden House, Croft House  
 Maer Hall & Estate, Maer Lodge and Maer Estate Cottages



# Maer Proposed Article 4

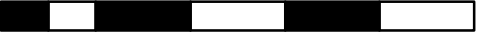
## Key

 Proposed Article 4

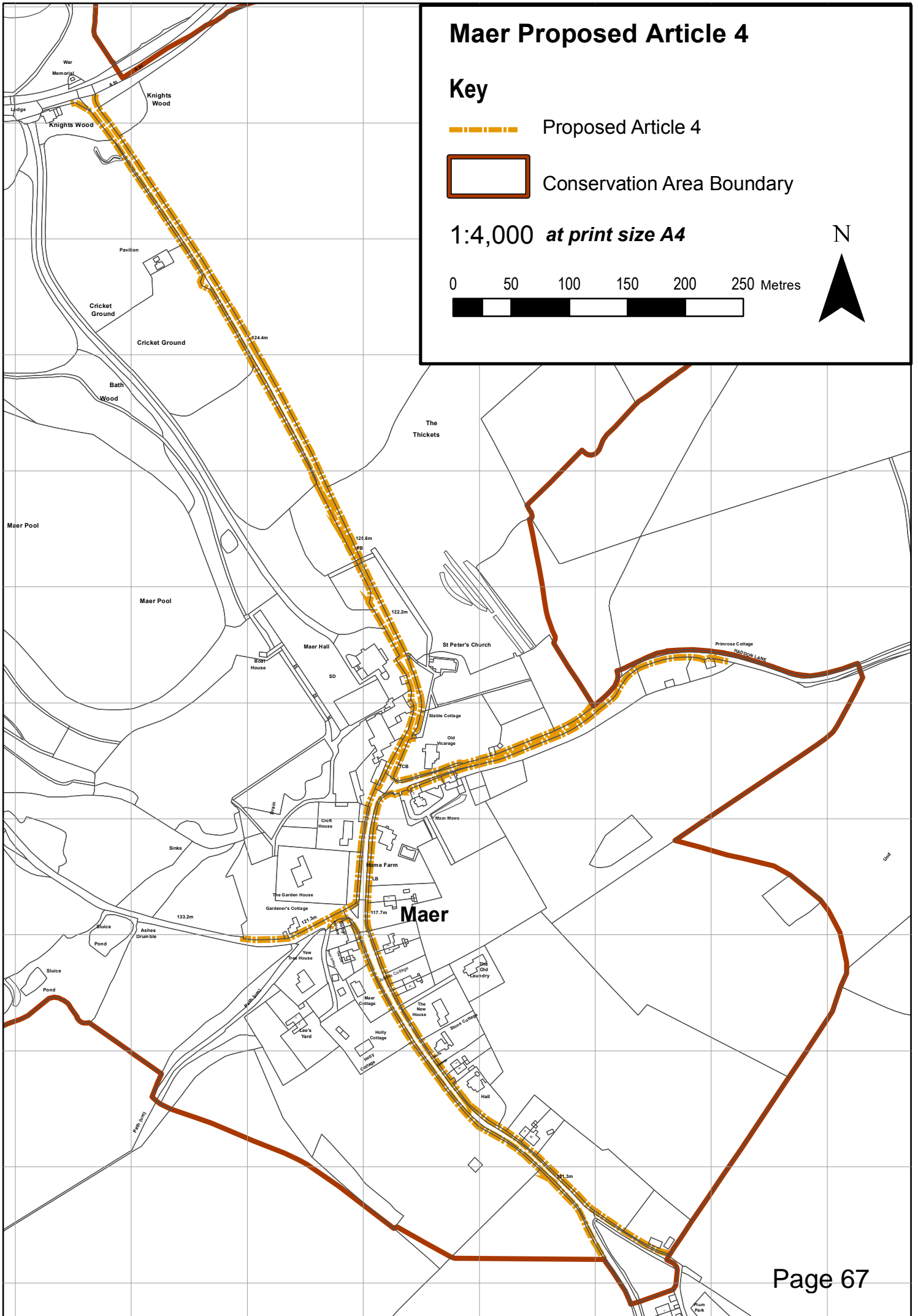
 Conservation Area Boundary

1:4,000 *at print size A4*

0 50 100 150 200 250 Metres



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**Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund for Betley Court, Main Road, Betley (Ref: 19/20001/HBG).**

**RECOMMENDATION:**

**That the following grant is approved:-**

- 1. £3,260 Historic Building Grant to repair the main roof, subject to the appropriate standard conditions**

**Purpose of report**

To enable members to consider the application for financial assistance.

Betley Court is a large estate manor house and a Grade II\* Listed Building built by G Wilkinson but has alterations by John Nash. The 18th Century house is built from brick with slate roof. Various repairs are required to parts of the main roof, namely,

- Appropriate repairs to the valleys to the front and side elevations of the house
- Conservation repairs to the fascia/soffit on the southern elevation
- Minor repairs to the skylight on the inner roof
- Re-fixing of tiles over various parts of the roof
- Secure and repair lead flashing, soakers and gutters
- Repairs to the hexagonal flat roof (Twemlow Lodge) and square flat roof (Fenton Cote).

The owner has received 3 quotations for the work and proposes to use the lowest which is estimated to cost £16,300.00 (VAT not eligible in this instance).

Betley Court has recently received a Historic Building Grant of £423 to repair the roof on the bow window on the southern elevation and a sash window. The work on the bow window is due to start in July and the sash window is booked in for June.

Listed Buildings and structures are entitled to apply for up to £5,000 Conservation and Heritage Grant Fund at 20% of the cost of the work. If both grants are accepted, Betley Court will have received £3,683 towards the cost of essential repairs at the house.

The Conservation Advisory Working Party's views are being sought and will be reported to the Committee.

**Financial Implications**

There is sufficient funding to meet this grant application with £28,000 in the Fund; allowing for commitments.

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**5 BOGGS COTTAGE, KEELE, reference 14/00036/207C3**

The purpose of this report is to provide Members with an update, in accordance with the resolution of Planning Committee at its meeting of 3<sup>rd</sup> January 2019, of the progress in relation to the taking of enforcement action against a breach of planning control at this location.

**RECOMMENDATION**

**That the information be received.**

As reported in the last update of 23<sup>rd</sup> April 2019, the Planning Inspectorate has confirmed that the appeal that has been made against the Enforcement Notice is valid but has not issued a 'start letter' and as such has not set out the appeal timetable and that remains the case on the date that this report was prepared.

The Inspectorate is currently indicating, as a guide, that an enforcement appeal will take from valid appeal to decision:

	<b>RECEIPT TO START</b>	<b>TO START EVENT</b>	<b>TO EVENT DECISION</b>	<b>TOTAL TIME</b>
<b>WRITTEN REPRESENTATIONS</b>	28 weeks within which receipt to validation is 3 weeks	13 weeks	3 weeks	44
<b>HEARINGS</b>	20 weeks within which receipt to validation is 4 weeks	21 weeks	7 weeks	48
<b>INQUIRIES</b>	35 weeks within which receipt to validation is 1 week	40 weeks	6 weeks	81

You will note that these time periods are longer than previously reported.

The appeal was received on 10<sup>th</sup> December and confirmation that the appeal was valid was received on 15<sup>th</sup> January 2019. At the time that this report was written it was 25 weeks since receipt

Date report prepared: 5<sup>th</sup> June 2019

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## **LAND AT DODDLESPool, BETLEY reference 17/00186/207C2**

The purpose of this report is to provide Members with an update of the progress in relation to this site following a planning application for the retention and completion of a partially constructed agricultural track, reference 18/00299/FUL, which came before the Planning Committee on the 6<sup>th</sup> November 2018.

### **RECOMMENDATION**

**That the information be received.**

### Latest Information

When the last update was given at Planning Committee of 23<sup>rd</sup> April it was reported that works to the track were likely to recommence in the near future following the approval of information to satisfy condition 3 of planning permission reference 18/00299/FUL.

However, your officers are not aware that works have recommenced and there is no further information to report at this time.

Date Report Prepared – 3<sup>rd</sup> June 2019

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## HALF YEARLY REPORT ON PLANNING OBLIGATIONS

### Purpose of the Report

To provide Members with a report on planning obligations which have been secured over the 6 month period referred to in this report, obligations which have been modified either by application or agreement, works that have been funded in part or in whole by planning obligations within this period, and compliance with their requirements

### Recommendation

- a) That the report be noted

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 3<sup>rd</sup> January 2019 and covered the period between 1<sup>st</sup> April to 30<sup>th</sup> September 2018. This report now covers the period between 1<sup>st</sup> October 2018 to 31<sup>st</sup> March 2019 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, contributions that have been received as a result of planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete.

Information that was not included in the previous half yearly report (and should have been) is also now included. This information should have been reported previously but was not picked up at the time of writing that report.

Planning obligations can be secured by agreement or by unilateral undertaking. These are sometimes known as Section 106 agreements or undertakings – being entered into pursuant to Section 106 of Town and Country Planning Act 1990, as amended.

As with previous half yearly reports the relevant Section 106 information is reported in various Tables.

Since the previous half yearly report on Section 106 planning obligations members will be aware that the Local Planning Authority is no longer seeking public open space contributions in respect of developments of 10 or less dwellings, other than in the circumstances expressly stated as possible in the Planning Practice Guidance. However, within Table 1 of this report the S106 planning obligations (for 10 dwellings or less) that were completed prior to this change are still identified. It is expected that there will be a reduction in the number of Section 106 Obligations being entered into following this change.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2018 to 31<sup>st</sup> March 2019)**

This Table identifies developments where planning obligations by agreement or by undertaking have been entered into by developers/owners. It does not include the obligations entered into by the public authorities, except where they are the landowner/developer. The cases involve both financial contributions, the provision of development such as affordable housing and obligations which restricts the use of a development e.g. non-severance of ancillary accommodation. Contributions are usually payable upon commencement of the development (the payment “trigger”), but that can vary. If a development is not undertaken it follows that there is no requirement to pay the contribution and payment should not therefore be assumed.

<b>Application reference and date of agreement or undertaking</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) entered into by developers/owners</b>	<b>The level of contribution(s) payable when development trigger achieved</b>
17/01001/FUL 26 <sup>th</sup> September 2018	Land To The North East Of Eccleshall Road South East Of Pinewood Road And North West Of Lower Road Hook Gate	Erection of 22 houses and bungalows with associated access roads and drainage	25% Affordable Housing	Not Applicable
			Contribution towards Secondary Education Places at Madeley High School	£33,244 (Index Linked)
			Public Open Space contribution towards improvement and maintenance of the open space/ play area at Burntwood/ Hugo Way	£80,562 (Index Linked)
17/00605/FUL  <i>10<sup>th</sup> October 2018 as part of the planning appeal which was subsequently dismissed.</i>	Land off Woodrow Way, Ashley	Erection of 10 dwellings and public open space	25% onsite Affordable Housing or an off-site commuted sum	Not Applicable
			Secondary Education contribution	£33,244 (Index Linked)
			On site open space provision and maintenance	Not Applicable
17/01015/OUT 5 <sup>th</sup> November 2018	24 Greenock Close, Newcastle	Two detached dwellings	Public Open Space contribution towards improvement and maintenance of the open space/ play area at Thistleberry Parkway	£11,158 (Index Linked)

17/00516/FUL 19 <sup>th</sup> November 2018	Loggerheads Hotel, Market Drayton Road, Loggerheads	Erection of 3 no. 4 bedroom detached houses with garages and associated turning space and landscaping	Public Open Space contribution towards improvement and maintenance of the open space/ play area at Burnwood/ Hugo Way	£16,737 (Index Linked)
17/00787/OUT <i>7<sup>th</sup> December 2018 as part of the planning appeal which was subsequently dismissed.</i>	Gravel Bank Mucklestone Road Loggerheads	Outline planning application for residential development of up to 70 dwellings including details of access	25% onsite Affordable Housing	Not Applicable
			Onsite Public Open Space Provision and Management Scheme	Not Application
			Secondary Schhol Education Contribution	£149,598 (Index Linked)
			Travel Plan Monitoring	£6,430
			Modeshift Stars Travel Scheme	£5,000
18/00259/FUL 20 <sup>th</sup> December 2018	T K Phillips Workshop, Moss Lane, Madeley	Erection of a pair of semi detached houses and a detached house	Public Open Space contribution towards improvement and maintenance of the open space/ play area at Birch Dale	£16,737 (Index Linked)
17/01033/FUL 11 <sup>th</sup> February 2019	Land At Birch House Road, Holly Road And Whitethorne Way, Chesterton	Demolition of former Community Centre and construction of 30 dwellings	Public Open Space contribution towards improvement and enhancement of public open space at Crackley Recreation Ground (Hazel Road)	£167,370 (index linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00559/FUL 28 <sup>th</sup> February 2019	Land Off Sandford Street, Chesterton	Proposed 10 no. two bedroom self-contained flats with associated parking	Public Open Space contribution towards improvement and enhancement of public open space at Crackley Play Area	£33,244 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable

18/00183/FUL 4 <sup>th</sup> March 2019	The Orme Centre, Orme Road, Newcastle	Conversion of existing building and erection of new building to provide 112 bed student accommodation	Public Open Space contribution towards improvement and enhancement of public open space at Queen Elizabeth Park	£124, 560 (Index Linked)
			Travel Plan Monitoring fee	£2,200 (Index Linked)
			Resident Parking Zone contribution (should it be demonstrated that the development has resulted in on street parking problems)	£50,000 (Index Linked)
18/00483/FUL 14 <sup>th</sup> March 2019	Former Savoy Cinema/Metropolis Nightclub, Newcastle	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a part 9, part 12 storey building to provide 211 rooms of student accommodation.	A 2 month introductory free Bus Pass to each student to travel to the campus at Keele University, Staffordshire University, Stoke College or Royal Stoke Hospital	Not Applicable
			Public Open Space enhancement contribution	£22,200 (Index Linked)
			Travel Plan monitoring contribution	£2,200 (Index Linked)
			Real Time Passenger Information system maintenance contribution	£8,000 (index Linked)
			Public Realm contribution	£11,000 (Index Linked)
			Improvements to the cycle route from Newcastle town centre to Keel University	10,600 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00693/FUL 25 <sup>th</sup> March 2019	Orchard House, Clayton Road, Newcastle	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities,	Public Open Space contribution towards improvement and enhancement of public open space at Lyme Valley Parkway	£130,203 (Index Linked)

		parking and associated private amenity space for persons aged 55 and over.	Restriction of Occupancy to C2 Use Class	Not Applicable
			Travel Plan Monitoring fee	£2,360 (Index Linked)

**Table 2 – Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1st October 2018 to 31st March 2019)**

This Table identifies developments where planning obligations by agreement or undertaking have been modified or discharged. The list includes decisions made under Section 106A (to vary or discharge the terms of an obligation), and where the Council has, without a formal application having been made, agreed to amend or modify an existing agreement.

<b>Application Number (if applicable) &amp; Reference Number of original related permission and date of modified /discharged agreement</b>	<b>Location of Development</b>	<b>Application</b>	<b>Decision</b>
18/00314/FUL 8 <sup>th</sup> November 2018	Land South Of Mucklestone Road, Loggerheads  Deed of Variation	Erection of five residential dwellings, access and associated works	Deed of variation securing the same terms as the original agreement concluded on 28 <sup>th</sup> August 2015 prior to grant of 15/00202/OUT
17/00722/FUL 9 <sup>th</sup> November 2018	2-4 Marsh Parade Newcastle Under Lyme  Deed of Variation	Variation of condition 2 to substitute the approved plans with revised plans which reduce the footprint, along with slight changes to the internal arrangements, alterations to site levels, revised site layout, and external elevations, of planning permission 17/00179/FUL for proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking	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.



**Table 3 - Development where financial contributions have been made (1st October 2018 to 31st March 2019)**

This Table identifies the developments where a planning obligation requires the payment of a financial contribution and the trigger for payment has been reached and payments have been made. The sum of the contribution may differ from that originally secured due to it being a phased payment of the contribution, or the application of indexation. Whilst some information has been received from the County Council the Table may be incomplete due to difficulties experienced in obtaining this information.

<b>Permission reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) subject of contributions received</b>	<b>Contribution made and to whom</b>
18/00188/FUL	Land Fronting Mow Cop Road, Mow Cop	Detached dwelling	Public Open Space Contribution	£5,634.60 NBC
18/00042/FUL	Sandon, New Road, Madeley	Two semi-detached dwellings	Public Open Space Contribution	£11,299.00 NBC
18/00250/FUL	12 Stafford Avenue, Newcastle Under Lyme	Demolition of existing bungalow and erection of two bungalows	Public Open Space Contribution	£5,579.00 NBC
17/00281/FUL	Land Around Wilmot Drive Estate, Lower Milehouse Lane, Newcastle Under Lyme	Development of 276 dwellings, public open space and associated infrastructure works	A financial contribution for the provision and maintenance of a Multi-Use Games Area (MUGA)	£60,000.00 NBC
16/00609/FUL	Land Adjacent The Sheet Anchor, Newcastle Road, Whitmore	The construction of 7 new houses with access road and associated landscaping	Commuted Sum towards Off Site Affordable Housing	£19,339.00 NBC
			Public Open Space Contribution	£20,601.00 NBC
15/01004/FUL	The Hawthorns, Keele Village	Proposed student	Secondary School Education Places at Madeley	£132,976.00

	And Barnes, Keele Campus, Keele	accommodation with car parking (Barnes, Keele Campus) and proposed residential development of 83 dwellings with school drop off point, shop and areas of greenspace (The Hawthorns, Keele Village).	High School (construction of two permanent classrooms)	SCC
15/00202/OUT	Land South West Of Mucklestone Road, West Of Price Close And North Of Market Drayton Road Loggerheads	Residential development of up to 78 units including provision of affordable housing, public open space and vehicular and pedestrian accesses	Secondary School Education Places	£116,354.00 SCC
			Primary School Education Places	£154,434.00 SCC
			Travel Plan Monitoring	£6,300.00 SCC

**Table 4 - Development where financial contribution have been spent. (1st October 2018 to 31st March 2019)**

This Table identifies those developments where the spending authority has advised the Planning Authority that they have spent within the above period a financial contribution secured via planning obligations. The Table is intended to cover expenditure both by the County Council and by the Borough Council and accordingly may be incomplete particularly with respect to the former. In the next 6 monthly report an update will, hopefully, be provided. The Table only refers to the spending of financial contributions, it does not refer to on-site affordable housing that has been provided as a consequence of planning obligations.

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
10/00612/OUT	The former The Cavalier Public House, Riceyman Road, Bradwell	Demolition of an existing public house and redevelopment for nine residential units.	£11,693.00 for the provision of education facilities within the vicinity of the development.	Construction of three classrooms to enable the school to expand by 105 pupil places.  SCC

**Table 5 - Developments where apparent breaches of planning obligations has been identified**

This Table identifies developments where either the triggers for the payment of financial contribution have been reached and no payment has yet been received, or there is some other current breach in terms of the obligation/undertaking. It also includes cases brought forward from previous periods, which have not yet been resolved, and cases reported in the last half yearly report which have now been resolved and can be considered "closed".

<b>Permission reference &amp; Date of Obligation &amp; enforcement case reference</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation and description of the apparent breach</b>	<b>Action taken and to be taken to resolve the apparent breach.</b>
12/00701/FUL 13 <sup>th</sup> May 2013 16/00219/207C2	Former Randles Ltd, 35 Higherland, Newcastle	Change of use of ground floor to A1 retail (convenience goods), installation of a replacement shopfront, associated external alterations and works including the recladding of the building and formation of a car park and amended site access	A financial contribution of £36,017 (index linked) towards the Newcastle (urban) Transport and Development Strategy (NTADS) is required to have been paid prior to the commencement of the development.  That has not happened	The ground floor of the building has been operating as a Tesco food store for a considerable amount of time. The County Council and the Borough Council have requested the outstanding amount which will need to have index linking applied, and in the event of payment still not being made further action may need to be taken.  Efforts have been made to contact the owner but no response has been received. The matter has been passed to the County Council's legal/ monitoring section to progress.  An update from the County Council on any progress is still awaited.
03/00880/OUT 26 <sup>th</sup> July 2005	Site of Former Packmoor Sports and Social Club, Turnhurst Road,	Residential development	Non-compliance with Clause 4.5 of S106 agreement which required a strip of land 1.5m wide either side of the centre line of	The development has been built out and inquiries have been made recently about this breach with the landowner's agent.

19/00118/207C2	Newchapel		certain Footpaths to be dedicated as highways immediately after the grant of planning permission.	An update will be provided when there is further information available.
17/00252/FUL 21 <sup>st</sup> July 2017 19/00123/207C3	Former Jubilee Baths Nelson Place, Newcastle (now the Sky Building)	Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking, alternative to Planning Approval 15/00166/FUL	Non-payment of part of the Residential Parking Zone Contribution (£48,000 index linked), and the Travel Plan Monitoring Fee (£2,200 index linked) required by Section 106 Agreement	<p>The payment of the complete residential parking zone contribution was by either occupation of the building or by 30th September 2017 (whichever is the earliest), and the Travel Plan Monitoring Fee by 7th August 2017. Clarification has been sought from the County Council.</p> <p>Whilst there is almost certainly a breach of these obligations, as members will be aware, the development is not occupied so the issue the payments were designed to address has not yet arisen.</p> <p>An update will be provided when there is further information available.</p>
11/00284/FUL 6 <sup>th</sup> February 2013 19/00129/207C3	Former Site Of Silverdale Station And Goods Shed Station Road, Silverdale	Erection of twenty three houses	Non-compliance with obligation requiring payment of financial contributions - £66, 689 (index linked to public open space, £55, 155 (index linked) towards primary school places and £26,244 (index linked) towards the Newcastle-under-Lyme Urban Transport Development Strategy (NTADS)	<p>When planning permission was granted it was the subject of a S106 agreement which secured certain payments as detailed and a financial viability review mechanism should development not be substantially commenced by a certain date, which might lead to a contribution to affordable housing off site.</p> <p>Evidence of substantial commencement was not received by the Local Planning Authority and on this basis it is concluded that the trigger is not achieved.</p>

				<p>Your officers have recently instructed the District Valuer to conduct a financial viability appraisal to determine whether the development can support policy complain planning obligations or any level of contributions.</p> <p>The final report of the DVS is awaited and a further update will be provided when one is available.</p> <p>In October 2018 on any approach by the developer and prior to the referral of the case to the District Valuer the developer requested that they be permitted to make payments in monthly instalments to settle the debt. This request is yet to be reported to the Committee because until the reappraisal has been completed the total sum owing is unknown. No payments appear to have been made to date</p>
<p>17/00791/FUL 24th April 2018 19/00130/207C3</p>	<p>Slacken Lane, Butt Lane</p>	<p>Erection of dwelling</p>	<p>Non-compliance with obligation requiring payment of a POS contribution of £5,579 (index linked)</p>	<p>Payment of this sum became due on 20th June 2018. The developer subsequently, following various items of correspondence, applied in February 2019 and the receipt by the Council of two appeal decisions, asked for the obligation to be discharged. The Planning Committee at its meeting on the 26th March declined this request and the developer was then informed of the decision.</p>

**LAND OFF WATERMILLS ROAD, CHESTERTON**  
**CARDEN DEVELOPMENTS LTD**

**18/00017/REM**

The above application was for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 60 dwellings at land off Watermills Road, Chesterton. The application followed the granting at appeal of an outline planning permission in January 2015 for residential development of up to 65 dwellings (Ref. 13/00974/OUT). The application was refused by the Planning Authority on 14<sup>th</sup> August 2018 (the decision notice being issued on the 17<sup>th</sup> August 2018) and an appeal was then lodged against that decision in late January .

**RECOMMENDATION**

That the decision of your Officer taken under the Matters of Urgency provisions, following consultation with the Chair, that:

- The Council should express the view to the Planning Inspectorate that it would be contrary to the principle of fairness established by the Wheatcroft judgement for the Inspector to determine the appeal on the basis of the revised plans; and
- The Council's Statement of Case should indicate that if the appeal is determined on the basis of the amended scheme, given that the amended plans directly address the reasons that the Planning Committee gave for the refusal of the application and that the revisions do not result in the introduction of any new issues or concerns, that it wishes to offer no evidence in support of the original grounds of refusal and it would not oppose the granting of the reserved matters application subject to appropriate conditions.

**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 by your Officer following consultation with the Chairman. The basis for the decision is explained in the report below.

**The decisions made and why.**

As Members may recall, the Planning Committee refused at its meeting on the 14<sup>th</sup> August 2018 an application (18/00017/REM) for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 60 dwellings at land off Watermills Road, Chesterton. The decision of the Committee was to refuse the application on the following grounds:

- 1) *The proposed development would, by virtue of the scale and design of the bund and acoustic fence and the inward-facing dwellings fronting Watermills Road, have a significant adverse impact on the character and appearance of the area. The proposed development is therefore contrary to policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the guidance set out in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) and the requirements and policies of the revised National Planning Policy Framework 2018, in particular the criteria set out in the section Achieving Well designed spaces.*
- 2) *The footpath proposed through the site, by virtue of it being enclosed and not overlooked, would be unsafe and unattractive to users being likely to be prone to anti-social behaviour. The proposed development is therefore contrary to policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the guidance set out in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) and the requirements and policies of the revised National Planning Policy Framework 2018, in particular the criteria set out in the sections Promoting healthy and safe communities and Achieving Well designed spaces.*

An appeal was lodged against the Council's decision which is being determined via the Written Representations procedure. In their Statement of Case the appellants have asked the Inspector to consider not the proposals which were considered by the Planning Committee but revised plans which show a development of 63 units. The plans differ in that they now provide no mound at the front of the site, the houses are brought forward and they are no longer inward facing, and the internal footpath has been re-designed.

The Inspector will expect and require the LPA in the Council's Statement of its case to express a view on whether or not they should determine the application on the basis of the revised plans or those which the LPA considered. The principles of whether or not appeal decisions should be decided on the basis of the original submission or later revised proposals are set out in what is termed the Wheatcroft Judgement and the Inspector will make their decision on the basis of those principles. In the Wheatcroft Judgement the High Court established that "the main, but not the only criterion on which...judgement should be exercised is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation."

The facts in this case are as follows –

- The difference between the two schemes is undoubtedly material and is certainly not "trivial".
- Publicity was given by the Council to the original application by means of a site notice and press advertisement in accordance with both the Council's Statement of Community Involvement and the related statutory requirements, giving third parties an opportunity to submit representations by a date which passed before the LPA determined the application.
- The revised scheme submitted to the Planning Inspectorate proposes a greater amount of development (63 as opposed to 60 units).
- The site has no residential neighbours in the immediate vicinity. It is relevant to note that there is a bund between Audley Road and the western part of the site, although the easterly part of the site is visible from properties on the north eastern side of Audley Road across the junction with Watermills Road and the lower land on either side of it.
- The site is directly opposite the Ibstock brickworks.
- Wardells, acting on behalf of Ibstocks prior to the determination of the application, submitted a letter of representation to the Borough Council requesting that the noise assessment be revised to consider the potential impact of the noise from the adjacent industrial premises on the proposed development and requesting that the applicant also demonstrate that the development complies with all parts of paragraph 123 of the then NPPF including the third bullet point of that paragraph which stated that planning decisions should "recognise that development will often create some noise and existing businesses wanting to develop in continuance of their businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established". This paragraph has since been replaced by paragraph 182 in the revised NPPF. They are clearly a party with an interest in the determination of the appeal.
- The appellants had not indicated in their Statement of Case or in any other correspondence to the Planning Inspectorate that the Council has been copied into that they have taken any steps to inform other parties of the change in the proposals, for example by the display of a public notice on site and in the press and by writing to such third parties, so that such third parties have the opportunity to refer to such changes in any comments which they may wish to make to the Planning Inspectorate.
- The proscribed notification sent out by the Borough Council about the appeal to interested third parties made no mention of the submission of revised proposals. That notification was sent to Ibstocks but at the time of preparing its Statement of Case, it was unknown to the Council whether Ibstocks or their agents had become aware that the Planning Inspector is being asked to consider proposals that are different from those which were considered and refused by the Borough Council.

Given that the Council was made aware of the proposed substitution of plans when the appeal was lodged in January, it could not say in May that it would be prejudiced were the Inspector to take account of the revised proposals. However, it was considered that the LPA had no alternative but to draw the above facts to the attention of the Planning Inspector and to express the view to the



Inspector that having regard to the Wheatcroft Judgement the development is so changed that to grant it would deprive those who should have been consulted (most particularly lbstocks) of the opportunity of such consultation, and accordingly it would be contrary to the principle of fairness established by the Wheatcroft judgement for the Inspector to determine the appeal on the basis of the revised plans.

The Council's Statement of Case, which had to be submitted by the 17th May, also had to deal with the potential scenario that the Inspector decides to determine the appeal on the basis of the amended plans. It was the view of your Officers that:

- a. The amended plans directly address the reasons that the Planning Committee gave for the refusal of the application;
- b. That the revisions do not result in the introduction of any new issues or concerns; and therefore that
- c. The Council's Statement of Case should indicate that if the appeal is determined on the basis of the amended scheme it wishes to offer no evidence in support of the original grounds of refusal and it would not oppose the granting of the reserved matters application, subject to appropriate conditions (detailed in the Statement of Case).

The decisions that had to be made before the 17th May were ones that were 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.

The Council's Statement of Case was required to be submitted by 17<sup>th</sup> May and your Officer consulted with the Chairman on the 14<sup>th</sup> May - the next Planning Committee then being on the 21<sup>st</sup> May (i.e. after the 17<sup>th</sup> May).

The action that has been taken is reported to the Planning Committee as required. The Planning Inspectorate's decision on the appeal and on a related costs application by the Council are now awaited and will be reported in the normal manner to the Committee when received.

Date report prepared: 5th June 2019

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**APPEAL BY ANDREW LIGOCKI AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE ERECTION OF A DETACHED DWELLING AT THE LODGE, STATION ROAD, ONNELEY**

<b><u>Application Number</u></b>	<b>18/00641/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused under delegated powers</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>1<sup>st</sup> May 2019</b>

## **The Appeal Decision**

The Inspector identified the main issue to be whether the appeal site is a suitable location for a dwelling having regard to local and national planning policy.

In dismissing the appeal the Inspector made the following key comments and observations:-

- Whilst Onneley is a loose knit settlement with no obvious centre, dwellings are generally concentrated around the junction with the main road. The appeal site, whilst accessed off Station Road, is located away from the concentration of dwellings, some distance from the junction with Newcastle Road within an area with a distinctly rural character. Whilst Station Road is not a through road, this does not mean that the entire road is within the settlement. Thus, it is not considered that the appeal site is within the settlement of Onneley.
- The appeal site is located outside a development boundary or village envelope and for the purposes of applying planning policy is located in the countryside. The proposal therefore conflicts with Policies SP1 of the Core Strategy and H1 and ASP6 of the Local Plan in this regard. The Council asserts that Policies H1 and ASP6 are out of date and has referred to an appeal decision, reference APP/P3420/W/18/3199376 (Gravel Bank), where, as a result the Inspector gave policies H1 and ASP6 limited weight. The Inspector in that appeal also makes reference to another appeal, reference APP/P3420/W/16/3149399 (Tadgedale Quarry), where the Inspector drew a similar conclusion. The Inspector agreed that the policies should not be given full weight in light of the above, however, the general thrust of the policies, which is to locate new development towards settlements with a range of facilities and access to public transport generally accords with the Framework and this is afforded significant weight.
- The appeal site has been the subject of a number of previous decisions. The Inspectors of both appeals considered the proposals against Paragraph 55 of the Framework (2012) which dealt with isolated homes in the countryside. Although the Framework has since been revised, Paragraph 79 has similar aims. The appellants have referred to the Braintree Court of Appeal decision. It is agreed that, in light of this judgement, given the proximity of other buildings the appeal site is not isolated and the restrictions set out in Paragraph 79 of the Framework do not therefore apply.
- The appellants assert that the appeal site, part of the garden of The Lodge, is underutilised and comprises brownfield land and have referred to the Dartford decision which found that only residential gardens within the built up area were exempt from the definition of previously developed land. Whilst the Framework states that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, as set out above, the appeal site is not within a settlement. Whilst the supporting text of Policy SP1 of the Core Strategy talks about prioritising brownfield land, the Policy itself seeks to secure targeted regeneration and 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, amongst other things.
- Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of

rural communities. The site would be accessed by Station Road, a predominantly single track road with a lack of footpaths and very limited street lighting. Given this, it is considered that future occupants are unlikely to choose to walk to Onneley. This would be particularly the case for those with limited mobility, parents with young children or at night, or in inclement weather. Furthermore, whilst Onneley may have a small number of facilities, these are unlikely to meet the day-to-day needs of future occupants and as such, it is likely that future occupants would therefore seek to meet some of their day-to-day needs at Madeley which is located approximately 2.7km by road from the appeal site, or Woore, which is over 3km by road. It is also likely that it would be necessary for future occupants to travel further to access other facilities and services.

- Future occupants would be likely to be highly reliant on private car and whilst the appellants aim is to use an electric car, it would not be reasonable to impose a condition restricting car use in such a way, and therefore this is afforded negligible weight.
- Whilst the number of daily movements which would be generated by the appeal scheme would be modest, future occupants would have a limited choice of transport mode, contrary to the objectives of the Framework, and the overall aim of the Core Strategy to reduce the need to travel. This is a significant factor weighing against the scheme.
- The Inspector notes the concern raised by the appellants that the Council did not consider the proposed dwelling as a self-build plot. However, there is no substantive evidence that the appeal scheme would meet the definition of 'self-build and custom-build housing' and therefore negligible weight is afforded.
- For all the above reasons it is concluded that the appeal site is not a suitable location for a new dwelling. It would fail to enhance or maintain the vitality of rural communities and would conflict with the overall aims of the Core Strategy to locate new development within development boundaries and village envelopes. Thus, the proposal would be contrary to the Framework.
- Although the Council is able to demonstrate a five year supply of housing, as set out above, the policies of most importance in determining the application are out of date. In such circumstances, the Framework states that permission should be granted unless 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.
- The adverse impact of the unsuitable location of the site with poor access to local facilities and services, would significantly and demonstrably outweigh the very limited benefits associated with the provision of one additional dwelling. It was therefore concluded that the presumption in favour of sustainable development does not apply in this case.

### **Your Officer's Comments**

This appeal decision is important in that the Inspector gives a further view on the weight to be attributed to policies within the Development Plan relating to the location of new housing. The Inspector agrees with the conclusions of the Inspectors determining the Gravel Bank and Tagedale Quarry appeals, that Policies H1 and ASP6 should not be given full weight. However, he also states that the general thrust of the policies, which is to locate new development with a range of facilities and access to public transport, generally accords with the Framework and he therefore affords this significant weight. He goes on to refer to CSS Policy SP1 stating that the Policy seeks to secure targeted regeneration and 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, amongst other things. He concludes that the site would conflict with the overall aims of the Core Strategy to locate new development within development boundaries and village envelopes and thus, would be contrary to the Framework. It is to be noted that despite the above the Inspector in this case still went on to apply the tilted balance approach because he found paragraph 11(d) to be engaged i.e. he found it necessary to consider the proposal in the context of whether the harm associated with the development significantly and demonstrably outweighed the benefits of the

development. This appeal decision is a further material consideration to which your Officers will have regard in the determination of applications for new housing in the countryside.

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