

Public Document Pack

Date of meeting Thursday, 3rd January, 2019
Time 6.00 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 - 6)
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - FORMER BRISTOL STREET MOTORS, LONDON ROAD. ADOBE RESIDENCIES. 16/01106/FUL** (Pages 7 - 14)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - SITES OF HORWOOD, LINDSAY AND BARNES HALLS, KEELE UNIVERSITY, KEELE. MR PHIL BUTTERS, KEELE UNIVERSITY. 18/00698/FUL** (Pages 15 - 32)
- 6 **APPLICATION FOR MAJOR DEVELOPMENT - ORCHARD HOUSE, CLAYTON ROAD, NEWCASTLE. GLADMAN RETIREMENT LIVING LTD. 18/00693/FUL** (Pages 33 - 48)
- 7 **APPLICATION FOR MAJOR DEVELOPMENT - LAND SOUTH WEST OF MUCKLESTONE ROAD, WEST OF PRICE CLOSE AND NORTH OF MARKET DRAYTON ROAD, LOGGERHEADS. MULLER STRATEGIC PROJECTS LIMITED. 15/00202/OUT** (Pages 49 - 54)
- 8 **APPLICATION FOR MAJOR DEVELOPMENT - LAND AT END OF GATEWAY AVENUE, BALDWIN'S GATE. KIER LIVING LTD. 13/00426/OUT** (Pages 55 - 60)

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| 9 | APPLICATION FOR MAJOR DEVELOPMENT - FORMER SAVOY CINEMA/METROPOLIS NIGHTCLUB, 72, HIGH STREET, NEWCASTLE. MODULTEC INTERNATIONAL LTD & METROPOLIS STUDENT LTD. 18/00483/FUL | (Pages 61 - 78) |
| 10 | APPLICATION FOR MINOR DEVELOPMENT- LAND ADJACENT CARTREF, RYE HILLS, AUDLEY. MR & MRS COTTERILL. 18/00842/FUL | (Pages 79 - 86) |
| 11 | APPLICATION FOR OTHER DEVELOPMENT - MAER HALL, MAER. MR FRADLEY. 18/00952/FUL | (Pages 87 - 92) |
| 12 | HALF YEARLY REPORT ON PLANNING OBLIGATIONS | (Pages 93 - 106) |
| 13 | APPEAL DECISION - LAND OFF WOODROW WAY, ASHLEY. 17/00605/FUL | (Pages 107 - 110) |
| 14 | APPEAL DECISION - ROSEBANK, NEW ROAD, WRINEHILL. 18/00490/FUL | (Pages 111 - 112) |
| 15 | CONFIRMATION OF ARTICLE 4 DIRECTION FOR KEELE CONSERVATION AREA | (Pages 113 - 114) |
| 16 | UPDATE ON LAND AT DODDLEPOOL. | (Pages 115 - 116) |
| 17 | 5 BOGGS COTTAGE, KEELE. 14/00036/207C3 | (Pages 117 - 118) |
| 18 | TREE PRESERVATION ORDER OLD BUTT LANE, WEST AVENUE, KIDSGROVE. TPO 196 | (Pages 119 - 156) |
| 19 | URGENT BUSINESS | |

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

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

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

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PLANNING COMMITTEE

Tuesday, 4th December, 2018
Time of Commencement: 7.00 pm

- Present:-** Councillor Andrew Fear – in the Chair
- Councillors S. Burgess, M. Holland, H. Maxfield, P. Northcott, S. Pickup, B. Proctor, M. Reddish, S Tagg, G Williams and J Williams
- Officers Becky Allen - Landscape Manager,
Nick Bromley - Senior Planning Officer,
Geoff Durham - Mayor's Secretary / Member Support Officer, Elaine Moulton - Development Management Team Manager and Anne-Marie Pollard - Solicitor
- Apologies Councillor(s) Mrs J Cooper

1. APOLOGIES

Apologies were received from Councillor Jennifer Cooper.

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 6 November, 2018 be agreed as a correct record.

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

Proposed by Councillor Simon Tagg and seconded by Councillor Bert Proctor.

- Resolved:**
- (i) That a decision on the application be deferred for a maximum of 3 months to give additional time to address the concerns raised by the LLFA.
 - (ii) Also decided that a letter should be sent to the LLFA from the Chair of the Planning Committee requesting that they meet/cooperate with the applicant in resolving the issue.

5. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF PEPPER STREET KEELE. KEELE HOME LTD. 13/00970/OUT

That, the S106 Agreement is varied

- (i) by reducing the amount of affordable housing to 6% as requested by the applicant, and that the trigger for reappraisal be amended to 18 months from

the date of the District Valuer's final report in the absence of substantial commencement being achieved by that date; and

- (ii) Provision of the financial bond of £1,339,804 (to reflect the latest estimated cost of the remediation works as included in the Viability Appraisal) upon completion of the new Agreement.

6. APPLICATION FOR MAJOR DEVELOPMENT - LAND AT BIRCH HOUSE ROAD, CHESTERTON. ASPIRE HOUSING GROUP. 17/01033/FUL

Resolved: (A) That, subject to the applicant first entering into a Section 106 agreement by 1st February 2019 to secure a review mechanism of the scheme's ability to make a policy compliant financial contribution of £167,370 (index linked) towards public open space at Crackley Recreation Ground (Hazel Road), if the development is not substantially commenced within 12 months from the date of the grant of the planning permission , and the payment of such contribution if then found financially viable,

the application be permitted subject to the undermentioned conditions:

- (i) Standard Time limit for commencement of development
- (ii) Approved Plans
- (iii) Prior approval of a scheme for the provision of 8 affordable housing units within the development. The scheme shall include the timing of the construction for the affordable housing, arrangements to ensure that such provision is affordable for both initial and subsequent occupiers and the occupancy criteria to be used for determining the identity of prospective and successive occupiers of such units and the means by which such occupancy will be enforced.
- (iv) Facing and Roofing Materials
- (v) Boundary Treatments
- (vi) Proposed finished ground levels and first floor levels
- (vii) Landscaping scheme, including replacement tree planting
- (viii) Widening of Laburnum Place and off-site car parking provision
- (ix) Provision of road, parking and turning areas
- (x) Surfacing, surface water drainage and delineation of car parking spaces
- (xi) Gradient of access drives
- (xii) Upgrading of two existing bus stops on Holly Road
- (xiii) Visibility Splays
- (xiv) Existing site accesses (on Whitethorne Way and Holly Road) made redundant and the crossing reinstated
- (xv) Construction management plan
- (xvi) Restriction on construction and demolition hours
- (xvii) Land contamination

- (xviii) Flood Risk Assessment (FRA)/Drainage Strategy mitigation measures
- (xix) Refuse and recycling collection arrangements
- (xx) Bat and bird boxes

(B). That, failing completion of the above planning obligation by the date referred to in the above recommendation, the Head of Planning either refuse the application on the grounds that without the obligation being secured, there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly and the potential payment of an appropriate policy compliant contribution for off site open space should financial circumstances then permit; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

7. APPLICATION FOR MINOR DEVELOPMENT - LAND TO THE WEST OF NEWCASTLE ROAD (A53), BLACKBROOK. CARE OF AGENT. 18/00491/FUL

Members were advised that this application had been withdrawn.

8. APPLICATION FOR OTHER DEVELOPMENT - MAER HALL, MAER VILLAGE, MAER. MR FRADLEY. 18/00821/LBC

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

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

9. APPEAL DECISION - 32 ALDERHAY LANE, ROOKERY. 17/00723/FUL

Resolved: That the appeal decision be noted.

10. APPEAL DECISION - 145 OAKLEY COTTAGE, WOORE ROAD, OAKLEY. 17/00657/FUL

Resolved: That the appeal decision be noted.

11. APPEAL DECISION - AXAIR FANS UK LTD. UNIT 3 LOWFIELD DRIVE, WOLSTANTON. 18/00220/FUL

Resolved: That the appeal decision be noted.

12. GUILLOTINE FOR REPRESENTATIONS/AMENDMENT OF SUBMITTED PLANS AT PLANNING COMMITTEE- REVIEW OF POLICY

Resolved: That the existing procedure be amended as follows:

For any application brought to the Planning Committee for determination the following rules shall apply

- (a) In order to allow Council Officers to be able to give a considered response, there will be a cut-off date of the close of business four working days prior to the meeting where an application is to be determined
- for any representations made about said application, save for representations made by the Council's statutory consultees, and
 - any information, such as reports and/or assessments in support of the said application.
- (b) In order that due consideration be given to an application, and that time for reflection on it be available to committee members, no alteration is permitted to plans submitted for determination from the close of business four working days prior to the meeting where the application is to be determined.

13. URGENT BUSINESS

There was no Urgent Business.

COUNCILLOR ANDREW FEAR
Chair

Meeting concluded at 7.45 pm

**FORMER BRISTOL STREET MOTORS,
LONDON ROAD
ADOBE RESIDENCIES**

16/01106/FUL

Full planning permission for 499 studio apartments for student occupation on the above site was granted by the Council in October 2017.

The development referred to is subject to planning obligations (contained with a Section 106 agreement that was completed on 30th October 2017) to provide several index linked financial contributions relating towards public open space and public realm enhancement and maintenance; Travel Plan monitoring; parking surveys; residents parking zone creation; real time passenger information displays; bus shelter upgrades and cycle network improvements.

A request from the developer has now been received to vary the current terms of the section 106 agreement which accompanies the planning consent. This is based on the claim made by the developer that the scheme is not financially viable if the contributions detailed within the s106 agreement have to be paid in full.

The developer is seeking to reach an agreement with the Council regarding this matter.

RECOMMENDATION

1. That the Council agree to amend the existing Section 106 agreement so that it requires contributions totalling £300,000 (index linked as from October 2017)
2. That such contributions comprise the following
 - i. £207,455 (index linked) towards public open space and public realm enhancement and maintenance;
 - ii. £2,245 (index linked) towards Travel Plan monitoring;
 - iii. £50,000 (index linked) for residential street parking surveys and if required the implementation of resident on-street parking controls;
 - iv. £10,000 (index linked) for Real Time Passenger Information displays (and maintenance) at the bus stops on London Road;
 - v. £5,000 (index linked) for bus shelter upgrades;
 - vi. £25,300 (index linked) towards local cycle network improvements from Newcastle Town Centre to Keele University.
3. That the Section as varied require, in the event of the full £50,000 (referred to in 2ii above) not being required for the residential street parking survey and implementation of resident on-street parking controls, the remainder of that sum then being made available for public open space and public realm enhancement and maintenance.
4. That the Section 106 as varied include a review mechanism of the scheme's ability to make a more or fully policy compliant contribution to public open space and public realm enhancement and maintenance, should the development be not substantially commenced within 12 months of the date of this decision, and payment of such additional contribution if then found financially viable
5. That the section 106 includes any appropriate amendments to ensure, as assumed in the appraisal, in particular that no revenue is obtained for the development from 53 car parking spaces within the development (such spaces being either in the case of 35 "gifted" to the occupiers of certain properties in London Road (in respect of proposals to introduce a Traffic Regulation Order on that road) or available for staff and visitors to the development
6. That the Council's agreement to the above be time limited, such deed of variation/ revised Section 106 agreement needing to be completed by the 3rd March; or such other date as the Head of Planning may consider appropriate

Reason for Recommendation

It is accepted, following the obtaining of independent financial advice, that a policy compliant scheme is not viable and that the scheme can only sustain reduced contributions but the benefits of the development are considered to outweigh the harm caused by the additional unaddressed demand created by the development on the public open space and public realm in the area. A revised or varied Section 106 agreement is required to secure those policy compliant contributions which can be afforded and a viability review mechanism should substantial commencement not be achieved promptly. It is considered that priority should be given to those contributions which assist in addressing issues that might otherwise arise of on street parking and promoting the use by the occupiers of the development of means of transport other than the private motor car

Key Issues

When the original Section 106 agreement was entered into in November 2017 with respect to the development referred to in planning application 16/01106/FUL the agreement secured a number of matters including the following:-

1. A contribution of £1,199,396 towards public open space and public realm improvement – including the upgrading of the subways that pass under the Grosvenor roundabout
2. Contributions relating to highways and transportation matters of:-
 - A) £2,245 towards Travel Plan monitoring;
 - B) £50,000 for residential street parking surveys and the potential implementation of residential parking zones
 - C) £10,000 for Real Time Passenger Information displays (and maintenance) at the bus stops on London Road;
 - D) £5,000 for bus shelter upgrades;
 - E) £25,300 towards local cycle network improvements from Newcastle Town Centre to Keele University
 - F) £25,300 towards cycle network improvements from Newcastle Town Centre to Keele University

The developer submits that the contributions required would render the scheme unviable and has requested that the original Section 106 agreement is varied by the Council. This is not a formal application but a request to the Council. As the County Council are party to the agreement their agreement will also be required if the agreement is to be varied

Two appraisals have been undertaken - one by the developer and one by the District Valuer instructed by the Borough Council

The Development Appraisal submitted by Abode Residences provides for the payment of no section 106 contributions and assesses the viability of the proposed scheme using the Developer's Return approach whereby their purchase price for the property has been input as a cost and this, together with the other scheme costs, has been deducted from the Gross Development Value (GDV) of the completed scheme, with the resultant output of their appraisal being a Developer's return of 4.4% of GDV. This return has then been compared to their assessment of the Benchmark Developer's return for a scheme of this nature of a minimum of 15% of GDV in order to assess viability and shows a deficit of £3,488,290 against this benchmark figure.

The developer has in light of the above proposed revised Section 106 contributions of £300,000.

The District Valuer has undertaken an appraisal that results in a Residual Land Value of £1,971,000, and details how he has reached that figure. As he advises it is accepted practice that residual appraisal methodology for financial viability testing should be used, and that this can be whereby either the level of return or site value can be input and the consequential output (either a residual land value or a level of return respectively) can then be compared to a benchmark to assess the implications of planning obligations on viability. He has calculated the site value/benchmark land value of the proposed scheme on a residual basis and he has then compared this figure to site value as a benchmark to assess viability. His report has been undertaken in accordance with the NPPF key principles regarding viability as revised in July 2018. Specifically the approach recommended for the assessment of site value/benchmark land value is either Existing Use Value + (known as EUV+), whereby it is "established on the basis of the existing use value (EUV) of the land, plus a premium for the landowner" (in order to incentivise the landowner to sell the land for development); or alternatively on the basis of the alternative use value of the land (its AUV).

On the basis that the site has no existing use (the garage buildings were removed some considerable time ago and the land has been unused for almost 10 years) and therefore cannot be valued on the basis of EUV+, the District Valuer has valued the site on the basis of its AUV.

In his view the most valuable use of the site would be for the development of student units. That planning permission 16/01106/FUL was granted indicates that 499 student units can be accommodated on the site. He has therefore researched and analysed comparable land sales, looking at the price paid per unit and has adjusted them to take into account location, size, type of construction and required Section 106 contributions before applying an adjusted per unit figure to the site. Having done so he then has deducted from the resultant figure the cost of abnormalities (the planning practice guidance advising that site-specific infrastructure costs should be taken into account when defining benchmark land value). On this basis he derives a figure of £2,843,000 as the site value/benchmark land value. Because the Residual Land Value is £1,971,000 against a site value/benchmark land value of £2,843,000 his conclusion is that the scheme is not viable on a policy-

compliant basis. Sensitivity testing shows that the proposed scheme could support the payment of Section 106 contributions of no more than £280,000 without being rendered unviable on the basis that this sum is payable prior to commencement of construction. If payments were to be delayed then this figure could rise to £296,000. However in that he did not take into account that the contributions in the existing Section 106 are indexed linked he would wish to adjust downward these figures – by the order of approximately £40,000.

The assessment of the Alternative Use Value is dependent upon the use of comparators (details of which have been provided), and is always a matter of professional expert judgement, hence the instruction of the District Valuer to advise the Council. In this case the purchase price paid by the developer of the land (£2,000,000) is less than the AUV. The District Valuer points out that the NPPG specifically advises against giving weight to the price paid for a site and he is of the view that the price paid was less than market value with the benefit of consent. He explains in detail why he considers the AUV is the amount that he advises it to be.

Members are advised that your Officer has been in extensive dialogue with the District Valuer about a number of points within his draft report and is now satisfied that the District Valuer's advice is a reasonable basis upon which to proceed.

As already indicated the applicant has previously advised that the scheme could afford contributions of £300,000 and the reasonableness of this figure should be judged in the context of the District Valuer's advice that has now been received.

The revised NPPF marks a significant change in the approach to be adopted to viability in planning decisions. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised.

National Planning Practice Guidance indicates that in decision making the consideration of viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.

The scheme does provide benefits, notably the provision of student accommodation within a highly sustainable location making use of previously developed land that has been vacant for some considerable time. The introduction of such accommodation should also benefit the town centre, making it a more vibrant place and having positive economic benefits. Members will also be aware that such purpose built student accommodation developments are now viewed as making a contribution, albeit not on a 1:1 basis, both to the Borough Council's housing land supply position and its housing delivery performance, in that they release market housing. The contribution from purpose built student accommodation makes up about one third of the expected delivery of housing within the Borough over 5 year period commencing 1st April 2018. Maintaining and indeed boosting the delivery of housing should be a key objective of the Council. These benefits are considered to outweigh the harm associated with the additional demand created by the development on the infrastructure of the area that would not be addressed were a much reduced financial contribution be made.

If the Committee are prepared to accept the above conclusions and reduce the total required contribution figure to £300,000 as is being recommended by your Officer, they can either reduce all of the contributions that are required by the same proportion (76%), or they can 'ring-fence' and protect one or more of the contributions and allow others to be even more substantially reduced or not obtained at all. The Council has no agreed formal "hierarchy of need" in its Developer Contributions SPD which can be referred to in such cases.

In this case, your Officer would suggest that given that some 150 car parking spaces are proposed on site for the student units, the location of the site on the edge of the town centre within a residential area that has limited off street parking, and the potential by reason of the location to achieve as a result of the proposed measures a significant modal shift away from use of the private motor car, those contributions that are focussed on the promotion of sustainable transport and addressing any consequential on-street parking demand issues, should be required in full to give them the maximum opportunity of working. That would equate to £92,545 leaving the remaining £207,455 for a significantly reduced Public Open Space/Public Realm contribution.

APPENDIX

Relevant Material Considerations include:

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

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

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

[Supplementary Planning Guidance/Documents](#)

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

The planning application documents the request relates to can be found at

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/16/01106/FUL>

Background papers

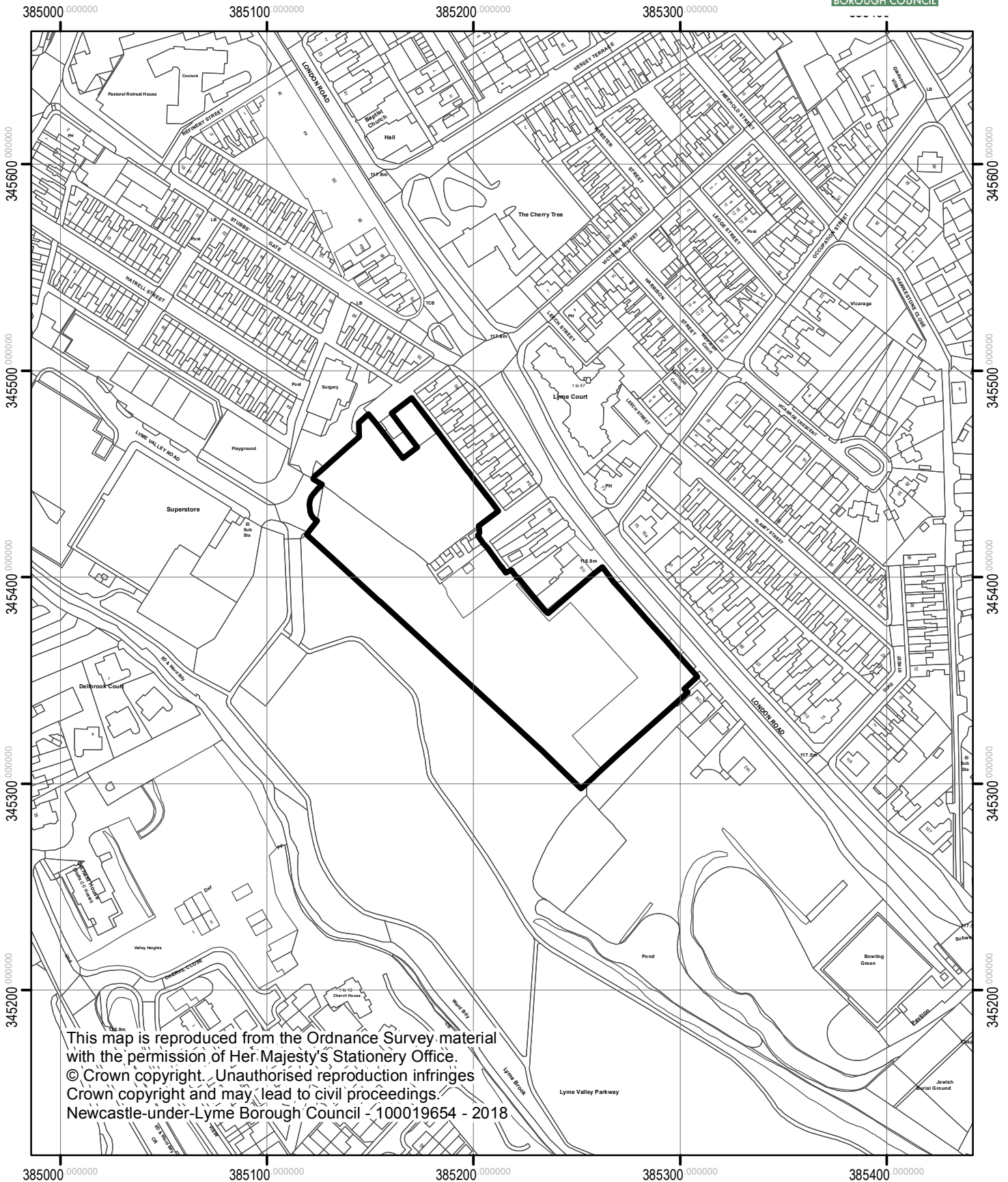
Planning files referred to

Planning Documents referred to

Date report prepared

21st December 2018.

Former Bristol Street Ford Garage
London Road, ST5 1LZ



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**SITES OF HORWOOD, LINDSAY AND BARNES HALLS, KEELE UNIVERSITY, KEELE
MR PHIL BUTTERS, KEELE UNIVERSITY**

18/00698/FUL

The application is for the demolition of 732 student bed-spaces and the erection of twenty new buildings to provide 1,685 student bedrooms (1,706 student bed-spaces) and social hub at Horwood and Lindsay Halls and the provision of car parking at Barnes and Horwood Halls.

The site lies within an area which on the Local Development Framework Proposals Map is excluded from the Green Belt but lies within an Area of Landscape Maintenance. Horwood and Barnes Halls and part of Lindsay Hall lie within the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall. Horwood Hall lies outside the Keele Hall Conservation Area, but contiguous with it, and a very small part of Lindsay Hall lies within the Conservation Area. A number of the trees within the application site are covered by Tree Preservation Orders. A map showing the extent of the Keele Hall Conservation Area and another of the Registered Parkland and Garden will follow as Appendices to the report on this application.

The 13 week period for the determination of this application expires on the 4th December but an extension of the statutory period has been agreed by the applicant to 9th January 2019.

RECOMMENDATIONS

- A) Subject to the applicant entering into a Section 106 obligation by 14th February 2019 to secure financial contributions towards travel plan monitoring (£2,360), the provision of real-time travel information (£15,000), and a Toucan signal controlled crossing on Cemetery Road (£39,000),

Permit, subject to conditions relating to the following matters:-

- Commencement time limit
 - Approved plans
 - Contaminated land
 - Construction management plan
 - External lighting scheme
 - Noise levels at residential units
 - Noise assessment for bars and social hubs
 - Noise levels from new external plant
 - Noise from internal plant and mechanical ventilation systems
 - Noise from energy centres and commercial activities
 - Written Scheme of Archaeological Investigation
 - Details of surface water and foul sewage drainage
 - Provision of parking, servicing and turning areas indicated on approved plans
 - Cycle parking in accordance with approved details
 - Travel plan
 - Upon occupation, or at a later date if agreed, a review of the parking and modal split situation at the University to be undertaken, and such measures as shall be justified by the conclusions of that review, including if appropriate, the provision of additional or alternatively reduced parking, and management measures, to be submitted to the Local Planning Authority for its approval together with a timetable for the implementation of such measures, and thereafter their implementation
 - Tree protection plan and method statement
 - Details of special engineering within RPAs
 - Monitoring of construction works where by arboriculturalist where affecting trees
 - Landscaping scheme
 - Detailed information regarding the new pedestrian route and crossing at Keele Hall Drive
 - Facing and surfacing materials
 - Sample panels to be retained on site
- B) Should the above Section 106 obligations not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure measures to ensure that the development achieves sustainable development outcomes, and does not impact on highway safety: or, if he considers it appropriate, to extend the period of time within which the obligations can be secured.

Reason for Recommendations

The principle of residential accommodation within the University Campus is considered acceptable providing the students with accommodation very close to their place of study and the associated shops and services that the Campus offers. Subject to conditions and various Section 106 contributions which are considered necessary and lawful, the level of car parking initially proposed is considered acceptable although it is considered appropriate to require the position to be reviewed at the occupation of the development. The impact on trees is also considered acceptable. The scale, and the simple, well-mannered design of the buildings would be appropriate and it is not considered that there would be any significant adverse impact on the character and appearance of the Historic Park and Garden, the wider campus, or on the even wider landscape impact of the University. Subject to the imposition of suitable conditions it is not considered that there are any adverse impacts of the

development that would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

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

Additional information has been requested and provided where necessary to progress the determination of the application. This is now considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework (NPPF).

Key Issues

1.1 The application is for the demolition of 732 student bed-spaces and the erection of twenty new buildings to provide 1,685 student bedrooms (1,706 student bed-spaces) and social hubs at Horwood and Lindsay Halls and the provision of car parking at Barnes and Horwood Halls.

1.2 The site lies within an area which on the Local Development Framework Proposals Map is excluded from the Green Belt but lies within an Area of Landscape Maintenance. Horwood and Barnes Halls and part of Lindsay Hall lie within the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall. Horwood Hall lies outside the Keele Hall Conservation Area, but contiguous with it, and a very small part of Lindsay Hall lies within the Conservation Area.

1.3 Planning permission was granted in 2017 for student accommodation and other campus related uses at Barnes (Ref. 16/01014/FUL for 617 new bed-spaces), Lindsay (Ref. 16/01015/FUL for 814 new bed-spaces) and Horwood (Ref. 16/01016/FUL for 915 new bed-spaces).

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

- Is the principle of the development acceptable?
- Does the proposed development have any adverse impact upon the character and appearance of the Conservation Area, the setting of any Listed Buildings or the character and appearance of the Historic Park and Garden?
- Is the location and design of the proposed development acceptable, including in the wider landscape context?
- Would there be any adverse impact on trees?
- Is the proposal acceptable in terms of its impact on highway safety and the level of car parking proposed?
- What planning obligations are considered necessary and lawful?
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

2. Is the principle of the development on the site acceptable?

2.1 The application site lies within the University campus which is excluded from the Green Belt. As indicated above the proposal is primarily for residential accommodation.

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

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

2.4 Saved Policy NLP H1 indicates that planning permission will only be given where one of a number of circumstances are satisfied including if the site is within the urban area of Newcastle or Kidsgrove or within one of the 'village envelopes'. This site does not satisfy any of the requirements listed.

2.5 As indicated above this site is not within the urban area or a village envelope nor would the proposed units serve an identified local need as defined in the CSS. As such its development for residential purposes is not supported by housing policies in the Development Plan. However the CSS Policy SP1 goes on to say that investment in Keele University and Science Park will be fostered to help strengthen the local knowledge and skills base and facilitate the growth and competitiveness of high value business development, thereby increasing local job opportunities in these sectors.

2.6 Only a small part of the site (at Barnes) lies within the area covered by NLP Policy E8 which relates to development at Keele University and Keele Science Park, but the principles of this policy are considered relevant. This policy indicates that development will be permitted so long as it is limited to one or more of the uses specified within it. Such uses include staff and student residences and therefore the proposal accords with the requirements of this policy.

2.7 CSS Policy SP2 lists Spatial Principles of Economic Development and includes investment in Keele University and Keele Science Park.

2.8 In approving the previous student accommodation schemes for the campus, the Local Planning Authority accepted that the site was in a suitable location for residential development (in terms of access to services and facilities). Newcastle Town Centre is approximately 3km from the site and although the route back from the Town Centre to the site is up hill, it is considered that at least some students would be able to walk to the shops and services of Newcastle Town Centre with regular bus services to destinations around the borough, and beyond. There is, at least during term time, a very high frequency bus service connecting Keele with Newcastle bus station, the hospital, the railway station and the City Centre. Importantly the dwellings are to be developed within the University Campus providing the students with accommodation very close to their place of study and the associated shops and services that the Campus offers.

2.9 Since the previous schemes were considered a revised NPPF has been published (July 2018). There is nothing in the revised NPPF to suggest that there is a basis for the Local Planning Authority to reconsider its position on this issue and therefore, noting the acceptance in 2017 that the development is in a sustainable location (in terms of access to services and facilities), there is no substantive basis for coming to a different view on this point now.

2.10 At the time of determining the previous applications for this site, the Council was unable to demonstrate a five year housing land supply, however it is the case that the Council is now able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 5.45 years as at the 1st April 2018. Given this, it is appropriate to consider the proposal in the context of the policies contained within the approved Development Plan.

2.11 The principle of residential accommodation within the University Campus is considered acceptable providing the students with accommodation very close to their place of study and the associated shops and services that the Campus offers.

3. Does the proposed development have any adverse impact upon the character and appearance of the Conservation Area, the setting of any Listed Buildings or the character and appearance of the Historic Park and Garden?

3.1 Horwood and Barnes Halls and part of Lindsay Hall lie within the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall. Horwood Hall lies outside the Keele Hall Conservation Area, but contiguous with it, and a very small part of Lindsay Hall lies within the Conservation Area. Keele Hall, a Grade II* Listed Building lies to the south-west of Horwood Hall.

3.2 There is a statutory duty upon the LPA to pay special attention to the desirability of preserving or enhancing the character and appearance of Conservation Areas and Listed Buildings in the exercise

of its planning functions. There is no such statutory duty with respect to the Registered Parkland and Garden. Local and national planning policies seek to protect and enhance their character and appearance of all of such features and development that is contrary to those aims will be resisted.

3.3 The NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

3.4 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset such as a Conservation Area, Listed Building or Registered Park and Garden, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

3.5 In Paragraph 195 it is indicated that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:-

- The nature of the heritage asset prevents all reasonable uses of the site; and
- No viable use of heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and
- The harm or loss is outweighed by the benefit of bringing the site back into use

3.6 Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

3.7 Saved NLP Policy B5 states that the Council will resist development proposals that would adversely affect the setting of a Listed Building.

3.8 NLP Policy B9 states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B14 states that in determining applications for building in or adjoining a Conservation Area, special regard will be paid to the acceptability or otherwise of its form, scale and design when related to the character of its setting, including, particularly, the buildings and open spaces in the vicinity. These policies are all consistent with the NPPF and the weight to be given to them should reflect this.

3.9 Overall, the Council's Conservation Officer states that the scheme is well thought out and aims to minimise the effect on the Historic Park and Garden and Conservation Area, including the listed buildings within the parkland. The Conservation Advisory Working Party (CAWP) considers that the scheme is overall more sympathetic and restrained than the previous scheme. No objections are raised to the car park at Barnes.

3.10 A number of trees are to be lost from the Historic Parkland as a result of the development. The impact of their loss will be considered in Section 5 below.

Horwood

3.11 The development at Horwood comprises two substantial blocks (Horwood A & B) on the former car park site opposite the Student Union, a 10-storey tower to replace the existing tower and a mix of 3 and 4 storey townhouses. A number of existing blocks would be demolished.

3.12 Horwood is adjacent to the north-eastern boundary of the Keele Hall Conservation Area which includes the Grade II* listed Keele Hall. The Heritage Statement submitted with the application states that the proposed buildings on Horwood would introduce replacement buildings on land already developed for university campus purposes and that the buildings would not introduce a use or built form that is out of character within the existing, immediate context of the Conservation Area. It goes on to highlight that the Conservation Area is well defined along its boundary with Horwood by dense woodland and vegetation so inter-visibility is limited.

3.13 With regard to the development at Horwood, the Conservation Officer states that the intentional relationship of Keele Hall with the landscape remains unaffected by the proposal and considers that Horwood A and B will be a successful new addition to the campus with its active frontage opposite the Student Union and the creation of new attractive spaces. The re-creation of the tower at Horwood is supported.

3.14 Whilst significant in height, Horwood A and B would be sited close to the existing heart of the campus and the highest block would not exceed the height of the existing tree canopy. This part of the site is sufficiently far enough away from Keele Hall not to compete with it and it is not considered that any objection could be sustained on the grounds of impact on the character of the Historic Park and Garden. The Heritage Statement considers that visibility of the proposed tower within key views through the most historically intact areas of the Park would not be possible and the original intentional designs and views through the landscape would be conserved. It states that whilst the tower would be glimpsed above the canopy of the woodland bank that encloses the Conservation Area when the trees are not in leaf, these views are not key views and it is not considered that it would substantially affect the significance of the Park.

3.15 Your Officer considers that given the existing development at Horwood and the significant landscaping between the Hall and the Conservation Area, there would be no significant adverse impact from the Horwood development on the setting of Keele Hall, the Conservation Area or the Historic Park and Garden.

Lindsay

3.16 The development at Lindsay comprises two blocks of townhouses (Lindsay V & W) to the north of the site adjacent to Lindsay Court, a set of three linked blocks to the east extending south through the site (Lindsay X), being four-storeys at the northern end and seven-storeys at the southern (lower) end with a flat roof, and a four-storey block to the south (Lindsay U).

3.17 The Design and Access Statement states that Lindsay Block X is parallel to the historic garden wall and is positioned to reinforce this strong boundary. It becomes the eastern 'wall' for Lindsay with terraced, lower-rise townhouses within the central spaces creating smaller, linked courtyards. It is stated that the 'wall' that Block X forms picks up on the historic openings and links in the garden wall and existing Lindsay Court Halls.

3.18 Keele Hall and the Clock House Listed Buildings lie to the east of Lindsay Hall but the historic relationship between the Listed Buildings and the walled gardens has been impacted upon by the existing development at Lindsay Hall and it is considered that the proposed development would have no greater impact on the setting of those Listed Buildings than is currently the case.

3.19 Lindsay Hall lies on the western edge of the Conservation Area, the boundary of which includes a very small sliver of land within the application site alongside the western wall of the upper garden. The remainder of the site forms part of the setting of the Conservation Area, but is not within it.

3.20 There is no published Conservation Area Appraisal but the Heritage Assessment states that the existing development has had a negative impact on the Conservation Area and its setting. It asserts that the impact of the proposal on the significance of the Conservation Area would be 'slight adverse'.

3.21 The Lindsay Hall site lies partly within the boundary of the Historic Park and Garden and partly within its setting. The Heritage Statement states that the existing accommodation blocks at Lindsay are not considered to benefit the character of the registered park or its setting and form negative

elements in short views westwards through the park from the former carriage route elevated above the lower walled garden. It is asserted that the proposed redevelopment of Lindsay would result in a lower-density built form of a higher quality design that is honest in its increased scale and prominence. The Heritage Statement argues that whilst visible in views through and into the registered park, the site does not comprise features or elements of the historic landscape that meaningfully enhance the significance of the park. Given the nature of the extant buildings at Lindsay, the overall impact of the proposals on the significance of the park would be 'slight' adverse with the detailed materials and finishes and landscaping offering opportunities to mitigate harm through enhanced built and landscape design.

3.22 The approach taken at Lindsay is supported by the Conservation Officer who states that Block X creates an interesting massing within the landscape and crucially is confined to the top section of the site reducing the impact on the southerly edge of the park and garden in this location.

3.23 Your Officer notes that although there are remnants of key parts of the designated landscape, it is exceptionally fragmented, particularly by early development of the University. University buildings are already visible from within and into the designed landscape and the existing Lindsay Hall has already caused disruption as have the farmbuildings and to a lesser degree Larchwood. The proposed development which would be informed by the historic layout and containment of the original walled garden would create some order and better designed buildings and spaces. It is considered that in the context of the existing development and given the thoughtful and well-mannered design and layout which has been informed by the historic landscape, the proposed development at Lindsay would not have any adverse impact upon the character and appearance of the Conservation Area, the setting of any Listed Buildings or the character and appearance of the Historic Park and Garden.

4. Is the location and design of the proposed development acceptable, including in the wider landscape context?

4.1 The site is within an Area of Landscape Maintenance as designated on the Local Development Framework Proposals Map and Policy N19 of the Local Plan states that within these areas it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape. This policy is considered to be consistent with the NPPF which states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Horwood

4.2 The Horwood site lies towards the centre of the University campus and just south of the northwest to southeast orientated ridgeline that crosses central parts of the campus. The site falls quite steeply to the southwest. The existing accommodation blocks and student townhouses comprise modern, red brick buildings with flat roofs to the accommodation blocks and pitched roofs to the student housing. The accommodation blocks are confined to the lowest parts of the site where they are mostly 3-storeys high although one block (the tower) in the centre of the site is 7-storeys.

4.3 The proposed development at Horwood comprises two substantial blocks (Horwood A & B) which are 5-6 storeys in height with a reception and hub proposed at ground floor level. Central to the block is an enclosed landscaped courtyard and an external terrace and potential social space is also proposed to the Keele Hall Drive elevation. A new pedestrian route is proposed to the west of the building which aligns with a new crossing point to connect with the Student Union building. Horwood Block C would replace the existing tower with a 10-storey tower located in the same position. The facades would be stepped in and out to emphasise the slender proportions and articulate the depth of the elevations with shadowing. The top two levels of the tower would be stepped back to top the tower off with reduced footprint. The existing accommodation to the east of the tower would be demolished and replaced by Horwood Blocks D-P. The proposals include three groups of buildings centred around a courtyard which would comprise car parking.

4.4 Similar design details would be used throughout the development but with different bricks used to emphasise the individual characters of the different halls. Horwood A & B would be primarily brick with glazed curtain walling to the south elevation at Hub level. It is proposed to use blue brindle bricks and

a contrasting pale brick to provide a strong reference to the Chapel and other buildings on the campus and brickwork recesses are proposed to the central blocks to reflect the pattern of window openings in the Chapel. The Horwood tower and townhouses would comprise facing brickwork with metal standing seam to the roofs and matching metal surrounds to the dormers.

4.5 Both the Conservation Officer and CAWP have raised concerns regarding the heavily suburban and uniform nature of the smaller groups of townhouses with steeply pitched roofs and chimneys which would be a prominent feature given the lack of this kind of development historically on campus. CAWP wish that consideration is given to variation of roofs with maybe occasional monopitches and reducing the angle of the pitches. The application states that the steep roofs are designed to give an elegant and composed character related to Keele Hall roofs. Whilst comprising traditional steep roofs, the design of the townhouses with window surrounds to the top floors, recesses at ground floor and crisp lines would give a more contemporary finish. Given the existing development at Horwood and the mix of designs on the Campus as a whole, it is considered that the proposals would be acceptable.

4.6 Urban Vision Design Review Panel (UVDRP) states that the provision of a new pedestrian route and crossing point to the west of Horwood Block A and B to create a stronger physical and visual connection with the existing Student Union Building is welcomed. The approach to the proposed tower is supported and the axis of the building to align with pedestrian routes is considered to be positive, aiding legibility. The Panel considered that the appearance and materials, whilst providing visual interest, are restrained, well-mannered and sit well with the proposed neighbouring townhouse blocks. The Panel considered the structural layout of the site to be improved, the form and proportion of the townhouses to work well and the limited material palette appropriate for the site context. UVDRP recommended that detailed information be submitted regarding the new pedestrian route and crossing at Keele Hall Drive and that further information be provided relating to the landscaping and levels of Blocks D-P.

4.7 There is existing built development and substantial vegetation surrounding the Horwood site which ensures that there would be no impact on the wider landscape. Existing perimeter vegetation will be retained and together with vegetation and buildings that adjoin the site, views of the new buildings from within the University and immediate surrounding area will be substantially filtered and screened. Overall your Officer considers that the scale, and the simple, well-mannered design of the buildings at Horwood would be appropriate and it is not considered that there would be any significant adverse impact on the character and appearance of the wider campus, or on the even wider landscape impact of the University.

Lindsay

4.8 The Lindsay application site lies south of the ridgeline that crosses central parts of the campus and runs parallel to the southern boundary of the built campus. The site falls quite steeply to the south southwest. The existing accommodation blocks towards the eastern and southern extent of the site comprise modern, yellow brick buildings with flat and pitched roofs that range in height from 2 to 4-storeys. At the northern higher end of the site are a number of older buildings of varying styles and materials, but of modern appearance.

4.9 The proposed development at Lindsay Hall comprises four blocks. Block U is located to the south of the site and would be 3-storeys with 4th storey 'pop-ups' and Blocks V and W would each be 4-storeys in height. Block X would comprise a set of 3 blocks with individual entrances providing shared facilities clusters. A shared vehicular and pedestrian route is to be provided through the lower level of Block X to link to existing car park Q. The townhouse blocks would have the same internal and external design as those at Horwood. Block X is parallel to the historic garden wall and the Design & Access Statement states that it is positioned to reinforce this strong boundary and create a new space in the area formed between the two. Block X becomes the eastern 'wall' for Lindsay with terraced, lower-rise townhouse within the central spaces creating smaller linked courtyards. It is asserted that the 'wall' that Block X forms picks up on the historic openings and links in the garden wall and existing Lindsay Court Halls.

4.10 Each individual element of Block X steps its bottom level down the site following the natural topography whereas the top roof level is a consistent level. By following the site's gradient and

stepping the blocks up the site, the tallest block is at the bottom but the Design & Access Statement asserts that due to its slim end proportions and detailing, the block is not overwhelming or dominating to the surrounding area. The top floor steps in to reduce the mass and overall feeling of height visible at the lower levels and the front elevation steps in and out.

4.11 A lighter buff-coloured brick is proposed to complement the red brick of Lindsay Court and the very yellowish buff brick of the blocks in the lower part of the site which will now remain. The smaller blocks will use the same metal standing seam and metal surround details as the townhouses at Horwood.

4.12 Urban Vision welcomed the design approach and articulation of Block X but raised some concerns regarding its massing and scale and the Panel recommended that additional information be provided to demonstrate how the development responds to the special character and historic features of Lindsay Hall site.

4.13 Your Officer considers that the scale and design of the proposed buildings at Lindsay Hall would be appropriate. In comparison to the previously approved scheme for this site (Ref. 16/01015/FUL) the tall block is set back away from the southern boundary of the University, making it less prominent in the landscape. In conclusion, it is not considered that the proposed scheme would have any significant adverse impact on the character and appearance of the wider campus, or on the even wider landscape impact of the University.

5. Would there be any adverse impact on trees?

5.1 There are a significant number of mature trees on and around the sites of the proposed halls. A number of the trees within the application site are covered by Tree Preservation Orders. The Landscape Development Section (LDS) objects to the proposals on the grounds that all of the existing trees within the central areas of the Horwood and Lindsay sites are shown to be removed, including category 'A' (high value) and 'B' (moderate value) trees. It is considered that this removal of mature trees will erode the parkland character of the campus and although tree planting is proposed to mitigate this loss it will take many decades to grow sufficiently. In addition, the LDS expresses concern that the proposed levels drawings seem to show that Root Protection Areas (RPAs) of retained trees on site boundaries will be affected by levels changes. Particular concern is expressed regarding 2 important trees on the Horwood site (T60 and T78) and two groups on the Lindsay site (G37 and G38).

5.2 The applicant responded with a Technical Note that stated that the existing topography is challenging across the campus and the need to tie into the surrounding areas, structures, adjacent highways and woodland belts whilst providing access for service vehicles, emergency services and accessible routes around the buildings, has resulted in the loss of a number of mature trees. The Technical Note also claims that the levels within the RPAs of T60, T78, G37 and G38 will not be affected.

5.3 The levels information submitted with the application appears to show that there will be impact within the RPAs of those trees and therefore your Officer sought further information on levels with particular reference to T60 and T78 which appear to be the most affected. A Note has been submitted that concludes that the proposed layout physically permits the retention of those trees without the need for branch or root pruning and without creating a future management burden. All new surfacing within the RPA of both trees can be installed to a no-dig and permeable design. The Note asserts that there are no proposed level changes within the RPA of T78 and those proposed around T60 diminish as they approach the tree and do not encroach closer than 3m from the trunk. It is submitted that the use of a granular fill material or the use of a suspended platform will ensure that conditions vital to the healthy function of tree roots are maintained.

5.4 The LDS does not consider that the additional information is satisfactory and it has not enabled a full assessment of the impact on the trees. It is not possible to say with any certainty that the two trees, T60 and T78 will be able to be retained.

5.5. Although it is the case that a number of trees would be removed from the site, some of which are Category 'A' and 'B' trees, the significant variation in levels across both Horwood and Lindsay Halls means that development is challenging and unfortunately the loss of some trees appears inevitable. Although the historic maps show key groups of trees in areas such as between Keele Hall and Horwood and along Observatory Walk adjacent to the former car park at Horwood, the trees to be lost do not appear to be a key component of the planned landscape. The loss of existing trees will be mitigated by new tree planting and although the new planting will take time to mature, given the overall importance of this development to the University's strategic growth ambitions, on balance, the tree loss is considered acceptable.

6. Is the proposal acceptable in terms of its impact on highway safety and the level of car parking proposed?

6.1 Information regarding the transport aspects of the application is contained within the Transport Statements and the Planning, Design & Access Statement. The redevelopment of the Horwood site will result in the provision of 140 car parking spaces with an additional 155 spaces located within the new car park on the Barnes site. No additional parking spaces are proposed at any of the Lindsay residential blocks. Overall, no change in total University parking provision is proposed.

6.2 The NPPF, at paragraph 109, states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network are severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. Policy T16 of the Local Plan, adopted in 2003, states that development will not be permitted to provide more parking than the levels set out in an appendix and also 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.

6.3 In terms of trip generation, the Transport Statements state that the proposals are not anticipated to have a material impact or give rise to any highway related issues. They conclude that the proposed developments would be able to be accommodated onto the local highway network and that there is no evidence to suggest that the proposals would have an adverse effect on road safety or the number of accidents in the vicinity.

6.4 The proposed development would result in an additional 974 residents on the campus but no additional car parking spaces are proposed. The Transport Statements highlight the University's Student Parking Scheme which states that students that are resident on campus are not permitted to bring a car to campus unless they are disabled or studying specified courses which require attendance on placements off campus. There are many facilities on the campus and there is a very good bus service between the campus and the town centre, all of which would influence students to leave any vehicle they may have at home. Those who live off campus are entitled to purchase a permit to park a car on certain designated car parks on payment of an approved charge.

6.5 The Transport Statements state that the proposals encourage sustainable travel by creating routes for pedestrians and cyclists that will link the accommodation with the surrounding Campus and amenities. The proposals also incorporate a commitment to prepare and implement a Travel Plan to maximise the uptake of walking and cycling and covered cycle parking spaces will be provided in a number of locations. As referred to earlier in the report, it is considered that the campus is in a relatively sustainable location within, at least for some, walking distance of the shops and services of Newcastle Town Centre with its regular bus services to destinations around the borough, and beyond. As already indicated there is, at least during term time, a very high frequency bus service connecting Keele with Newcastle bus station, the hospital, the railway station and the City Centre.

6.6 The Highway Authority has no objections to the proposals subject to a number of conditions and Section 106 contributions.

6.7 It is the case that although issues of the level of car parking provision for these developments might in the first instance appear to be matters that do not affect safety on the public highway in that they are internal issues for the University to manage in terms of its own estate, the amount and management of parking available on the campus as a whole does have a wider impact on locations where drivers can and will, in the absence of controls, park and walk in from. Significant on-street parking associated with the University is occurring beyond the campus.

6.8 In considering the previous accommodation proposals for the Campus, it was considered necessary to impose conditions to address the potential impact of the University's parking position on the position outside the campus. Completion of the temporary car park (granted planning permission under Ref. 17/00012/FUL) was required prior to commencement of development and a review of parking arrangements was required following completion of the scheme to ensure that a suitable number of spaces are maintained in the longer term. The temporary car park has been constructed and that will help to ensure sufficient car parking provision during construction but it remains the view of your Officer that it is reasonable to require a review of the parking and modal split situation at the University to be undertaken following occupation of the development.

7. What planning obligations are considered necessary and lawful?

7.1 Section 122 of the Community Infrastructure Levy Regulations states that planning obligations should only be sought where they meet all of the following tests:

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

7.2 The Highway Authority requests a number of financial contributions towards travel plan monitoring, a toucan signal controlled crossing on Cemetery Road and Traveline (the development of real time travel information data feed for mobile phones). These are considered to accord with the CIL Regulations.

APPENDIX 1

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 SP2	Spatial Principles of Economic Development
Policy SP3	Spatial Principles of Movement and Access
Policy ASP6	Rural Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP2	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
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 E8	Keele University and Keele Science Park
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N12	Development and the Protection of Trees
Policy N13	Felling and Pruning of Trees
Policy N17	Landscape Character – General Considerations
Policy N19	Landscape Maintenance Areas
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

[National Planning Policy](#)

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

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

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

[Supplementary Planning Guidance/Documents](#)

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

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

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

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

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

Relevant Planning History

- 10/00531/FUL Construction of student accommodation blocks at Keele University Campus (Barnes and Horwood) and residential development and an older persons care village at The Hawthorns - withdrawn on 7th March 2011
- 13/00424/FUL Proposed student accommodation with car parking at Keele Campus (Barnes) and residential development of 92 dwellings with school drop off point, shop and linked area of green space at The Hawthorns – Refused and dismissed at appeal in July 2015
- 16/01004/FUL Demolition of the Management Centre buildings at the Hawthorns, Keele and the construction of student accommodation at Keele University Campus (Barnes) and residential development at The Hawthorns, Keele – Approved
- 16/01014/FUL Demolition of 366 student bed-spaces and the erection of seven new halls of residence comprising four cluster flat blocks and three townhouse blocks to provide 617 new student bed-spaces, three wardens' flats and two laundries; the erection of a single-storey social hub; the erection of a new energy centre; the erection of ancillary buildings including bike stores and bin stores; the reconfiguration of parking, servicing and accesses; plus hard and soft landscaping, engineering works and associated infrastructure at Barnes Hall – Approved
- 16/01015/FUL Demolition of an energy centre, music studio and 241 student bed-spaces and other demolition works; the erection of 10 new halls of residence, comprising seven cluster flat blocks and three townhouse blocks to provide 814 new student bed-spaces, three wardens' flats, three laundries, a social hub in two locations; the erection of a replacement energy centre; the erection of ancillary buildings including bike stores and bin stores; the reconfiguration of parking, servicing and accesses; plus hard and soft landscaping, engineering works and associated infrastructure at Lindsay Hall – Approved
- 16/01016/FUL Demolition of 266 student bed-space and other demolition works; the erection of 13 new halls of residence, comprising seven cluster flat blocks and six townhouse blocks to provide 915 new student bed-spaces, three wardens' flats and three laundries; the provision of a music and teaching facility and a replacement medical facility; the erection of a two-storey social hub; the erection of ancillary buildings including bike stores and bin stores; the change of use of 'House 99' to the Keele Postgraduate Association building; the reconfiguration of parking, servicing and accesses; plus hard and soft landscaping, engineering works and associated infrastructure at Horwood Hall – Approved
- 17/00012/FUL Creation of temporary car park and associated works - Approved

Views of Consultees

Historic England does not wish to offer any comments.

The **Council's Conservation Officer** makes the following comments:

- The scheme is well thought out and aims to minimise the effect on the historic park and garden and Conservation Area, including the listed buildings within the parkland. The intentional relationship of Keele Hall with the landscape remains unaffected by the proposal, particularly unobstructed and uninterrupted views south-east and south-west from the hall, allowing for far reaching views beyond the parkland. The impact statements within the heritage statement are generally accepted.
- Horwood A and B will be a successful new addition to the campus and its approach and massing is appropriate in the context. The active frontage will open out this area and create new attractive spaces. The re-creation of the tower at Horwood is supported and it is pleasing

that there is no large scale development further north and this approach seems less dense than the previous scheme.

- Some concerns are raised over the heavily suburban nature of the smaller groups of terraced houses with steeply pitched roofs and chimneys which are a prominent feature given the lack of this kind of development historically on campus.
- All of the new buildings at Horwood and Lindsay are proposing replacement buildings on land already developed for the campus so principally are not inherently harmful to the character of the parkland or setting of the Conservation Area given the lack of inter-visibility.
- The approach taken at Lindsay is supported and the larger tenement style townhouses work within the context. The hall block creates an interesting massing within the landscape and crucially is confined to the top section reducing the impact of the larger scale building on the southerly edge of the Park and Garden in this location.
- There will be limited small scale harm created to the heritage assets and to their settings. Views into and out of the Conservation Area will be protected by large banks of trees and therefore there will only ever be glimpses of buildings which will be seen in the context of the campus environment.
- No objections are raised to the car park at Barnes.

The **Gardens Trust** has considered the information provided in support of the application and does not wish to comment on the proposals at this stage. It is emphasised that this does not in any way signify either their approval or disapproval of the proposals.

The **Conservation Advisory Working Party** – the scheme is overall more sympathetic and restrained than the previous scheme. They raised concerns regarding the possible brick at Horwood A & B being too dark and a little oppressive and recommended that there is a balance of colours and materials within the design. Regarding Horwood, concerns were raised over the uniformity of the layout and the very steep roof pitches on the townhouses which may date and are a very alien feature within the campus. They wished consideration to be given to variation of roofs with maybe occasional monopitches and reducing the angle of the pitches. Regarding Lindsay they asked for clarification on the cladding of the townhouses and suggested that more earthy colours were used rather than a buff brick. The Working Party also commented that they wished the provision of disabled rooms not to be grouped in one place but spread around the campus.

Staffordshire County Council Rural County (Environmental Advice) Team – No further archaeological mitigation required for Horwood and Barnes Halls but a programme of archaeological recording is required for a defined area of Lindsay Hall. A condition is recommended requiring a Written Scheme of Archaeological Investigation for that area.

The **Environmental Health Division** – no objections subject to conditions regarding a construction environmental management plan, provision of kitchen ventilation systems and odour abatement, external lighting scheme, noise levels at residential units, noise assessment for bars and social hubs, noise levels from new external plant, noise from internal plant and mechanical ventilation systems, noise from energy centres and commercial activities, and contaminated land.

The **Landscape Development Section** – objects to the layout for the following reasons:

- It is disappointing that there has been no concession for existing trees growing within the central areas of the Horwood and Lindsay sites and no attempt appears to have been made to retain any. All except those shown on the boundaries are shown to be removed, including category 'A' and 'B' trees. The Design and Access Statement refers to three sycamore trees retained in the most northern courtyard of Horwood but this appears not to be the case.
- This removal of mature trees, including those that existed prior to the current buildings being built, will erode the parkland character of the campus and although tree planting is proposed to mitigate this loss it will take many decades to grow sufficiently. Trees planted as part of the original development in the mid-20th century are only just beginning to reach their full potential.

Further comments are as follows:

- The proposed levels drawings seem to show that RPAs of retained trees on site boundaries will be affected by levels changes. Particular concern is expressed regarding 2 important trees on the Horwood site and two groups above the proposed retaining wall to the north of Block X on the Lindsay site. There are others where levels should be amended to accommodate trees to BS5837: 2012. It is requested that trees shown to be removed from boundaries should, with layout amendments, be retained if possible.
- A pre-contract Tree Protection Plan is required to demonstrate that the retained trees will not be harmed. This should show areas for special engineering and remedial works within RPAs and include for proposed drainage and underground services. The RPAs of retained trees have not been included on the Tree Works plans and for clarity these should be added.
- No objection in principle is raised to the strategic landscaping proposals subject to submission of a detailed landscaping scheme. Existing retained trees shown on the plans do not appear to be consistent with those shown in the tree report and the scheme should be revised accordingly.

The **Local Lead Flood Authority** – No objections subject to a condition regarding submission of a detailed surface water drainage design.

The **Highway Authority** has no objections subject to conditions regarding the provision of parking, servicing and turning areas, provision of cycle parking, implementation of travel plan and the submission of a Construction Management Plan. Section 106 contributions are required towards travel plan monitoring, a toucan signal controlled crossing on Cemetery Road and Traveline (the development of real time travel information data feed for mobile phones).

Keele Parish Council agreed that as students are not allowed to bring cars onto campus, there would be no further impact on parking. It was noted that additional parking is to be provided.

Natural England raises no objections and states that the proposed development will not have significant adverse impacts on statutorily protected sites and landscapes.

Cadent Gas states that there is apparatus in the vicinity which may be affected by the proposal and therefore the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by the works.

Severn Trent Water has no objections subject to a condition requiring drainage plans for the disposal of foul and surface water flows.

The **Environment Agency** has assessed the application as having low environmental risk.

Staffordshire County Council as the **Mineral and Waste Planning Authority** has no comments to make on the application.

No comments have been received from the **Council's Waste Section, Staffordshire Wildlife Trust** and **Staffordshire Gardens and Parks Trust**, the date by which their comments were requested has passed without comments being received from them and they must be assumed to have no observations to make.

Representations

None received

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Transport Statement
- Travel Plan
- Flood Risk Assessment
- Air Quality Assessment

- Energy Strategy
- Acoustic Planning Report
- Preliminary Ecological Appraisal
- Bat Survey Report
- Landscape & Visual Assessment
- Heritage Statement
- Archaeological Desk Based Assessment
- Arboricultural Impact Assessment
- Phase 1 Geo-environmental Desk Study
- Statement of Community Engagement

All of these documents are available for inspection at the Guildhall and as associated documents to the application in the Planning Section of the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00698/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

17th December 2018

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ORCHARD HOUSE, CLAYTON ROAD, NEWCASTLE
GLADMAN RETIREMENT LIVING LTD

18/00693/FUL

The application is full planning permission for specialist accommodation for the elderly comprising 75 residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over.

Vehicular access would be off Clayton Road.

The application site lies within the major urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.87 hectares.

The 13 week period for the determination of this application expired on the 10th December but the applicant has agreed an extension to the statutory determination period to the 11th January 2019.

RECOMMENDATIONS

A. Subject to;

(i) the receipt and consideration of further tree protection information, and
(ii) the applicant first entering into a Section 106 agreement by the 20th February 2019 securing a financial contribution of £130,203 (index linked) towards the maintenance and improvement of public open space at Lyme Valley Parkway, restriction of the occupancy of the accommodation so that it falls within the C2 Use Class, and a travel plan monitoring fee of £2,360 (index linked), PERMIT the application subject to conditions relating to the following matters:-

1. Standard time limit for commencement of development
2. Approved plans
3. Materials
4. Boundary treatments
5. Finished ground levels and floor levels
6. Detailed soft landscaping scheme, including replacement trees
7. Dimensioned Tree Protection Plan
8. All special engineering within tree RPAs
9. Schedule of works to retained trees
10. An arboricultural site monitoring schedule
11. Submission and approval of access improvements
12. Design improvements/ screens to balconies to prevent overlooking
13. Visibility splays
14. Access, parking, turning and servicing areas
15. Submission and approval of a car park management scheme
16. Bus stop upgrades
17. Submission and approval of a travel plan
18. Submission and approval of secure weatherproof cycle parking
19. Submission and approval of construction method/ environmental management plan
20. Waste management and collection arrangements (including hours restriction)
21. Surface water drainage design
22. Pumping station details – noise and odour impact
23. Drainage plans for the disposal of foul and surface water flows
24. Land contamination
25. External lighting
26. Kitchen Ventilation System and Odour Abatement details
27. Mechanical Ventilation of Residential Rooms
28. External plant details
29. Electric Vehicle Charging Provision
30. Bat and Bird box provision

B. Should the obligations referred to above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that in the absence of such the proposal would be contrary to policy on the provision of affordable housing, open space for housing developments and monitoring of an acceptable travel plan, or, if he considers it appropriate, to extend the time period within which the obligation referred to above can be secured.

Reason for Recommendations

Whilst the development is not located on land that would all meet the definition of previously developed land, it is located within a sustainable urban area and there is a presumption in favour of sustainable development, which results in the development being considered acceptable in principle. The design and scale of the proposed development would have an acceptable impact on the visual amenity of the area, existing residential properties and ecology. The new access and parking arrangements are unlikely to cause a detriment to highway safety but additional tree information is required. The proposed development, subject to conditions and the completion of a Section 106

agreement as indicated above, accords with policies of the development plan and the guidance and requirements of the National Planning Policy Framework.

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

Officers have been in discussions with the applicant to address concerns raised by consultees and this has resulted in amended and additional information and plans being submitted. Further information is still required to address concerns and the applicant has been given further opportunity to do this prior to the committee meeting.

KEY ISSUES

1.1 This is an application for full planning permission for specialist accommodation for the elderly comprising 75 residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over. The proposed accommodation falls within Use Class C2 - residential care homes/ institutions.

1.2 The application site, of approximately 0.87 hectares in extent, and is located within the urban area of Newcastle which has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

1.3 A prior approval application for the demolition of the Orchard House building was granted in September 2018 but the works have not yet been carried out.

1.4 Members may recall that the site has been the subject of a hybrid planning application for full planning permission for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and outline planning permission for the erection of up to 20 dwellings on the remaining part of the site, reference 17/00194/OUT. The application was permitted in November 2017.

1.5 35 Clayton Road does not form part of the application site here being considered.

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

- Is the principle of the development on this site acceptable?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the proposed development have any material adverse impact upon highway safety?
- Would the impact on trees and ecology be adverse?
- Would the development impinge unduly upon levels of residential amenity of adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves? and
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

2.0 Is the principle of the development on this site acceptable?

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

2.2 Saved Local Plan policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 1,000 dwellings within Newcastle Urban South and East (within which the site lies).

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to

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

2.4 Whilst the site was formerly occupied by the Orchard House building the majority of the land is garden and does not meet the NPPF definition of previously developed land. The site is within the urban area in close proximity to Newcastle town centre and its associated shops, public transport links, leisure facilities and entertainment facilities. Therefore, it is considered that the site provides a highly sustainable location for additional residential development.

2.5 The National Planning Policy Framework (NPPF) advises, at paragraph 11 that decisions should apply a presumption in favour of sustainable development. It goes on to say that for decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

2.6 Footnote 7 indicates that out-of-date as referred to in the second bullet point includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

2.7 The Council's position, following the adoption of the latest five-year housing land supply statement at Planning Committee on 27th September, is that it can now demonstrate a housing land supply of deliverable housing sites, allowing for the appropriate buffer, of 5.45 years. The policies of the Development Plan referred can therefore be considered to be up to date and can be given due weight given that they are not inconsistent with the NPPF. The fact that the site is in the main greenfield does count against the proposal. That aside the site is in a very sustainable location within a relatively short walking distance of the town centre and its facilities and services. The principle of residential development has furthermore already been accepted on the site and there is an extant planning permission as well. In all other respects policies within the development plan are supportive of residential development in this location.

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

3.0 Would the proposed development either have a significant adverse impact on the character and form of the area?

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

3.2 Policy CSP1 of the CSS under the heading of 'Design Quality' advises new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape. The Urban Design SPD further expands on this by advising in R14 that

“Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them.”

3.3 The proposed development is primarily for a 4-storey building that would front Clayton Road. The site is located on a busy route into the town centre and has been undeveloped in recent years. The site is occupied by Orchard House which dominates the site frontage but offers very limited visual merit within the street scene. The frontage of the site is also dominated by trees, as is the rear of the site, which adjoins the Lyme Brook that runs in between the application site and the adjacent Lyme Valley Park public open space.

3.4 The proposed building would have a large footprint that would occupy much of the site curtilage but car parking and outdoor amenity space for future residents is also proposed. The building would be in use as a C2 residential care home. 75 apartments are proposed to be occupied by residents in need of care with communal facilities, which include a lounge, coffee bar, restaurant, kitchen, assisted bathroom, guest suite, hair salon, activities and therapy suite and landscaped gardens – this is the reason for the scale of the building that is proposed.

3.5 The site is set on a lower existing ground level than Clayton Road. The proposed building would be stepped down from front to rear so that it follows the sloping gradient of the land with the largest section of the building, at 4-storeys in height, fronting Clayton Road. The proposed building would be seen in the context of the existing 4-storey building at the junction of Clayton Road and Lyme Valley View that adjoins the application site to the south.

3.6 Whilst a number of objections have been received raising concerns about the scale of the proposal and the impact on the character of the area, it is considered that the submitted street scene plans and site sections demonstrate that the development can assimilate well with the surroundings. Your officer is of the view that the proposal responds well to the appearance of the street scene, which has a varied architectural character and a range of style and scale of buildings. A palette of facing materials has also been submitted and additional soft landscaping would further aid the appearance of the proposal within the street scene. The design is therefore considered acceptable.

3.7 The mature trees on the site frontage would soften the impact of the building from the Clayton Road frontage and the trees on the rear boundary would do the same from views out of the Lyme Valley Parkway. Subject to these trees being protected and retained, along with the recommended conditions, the proposal is considered to be in accordance with policy CSP1 of the CSS and the guidance and requirements of the NPPF.

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

4.1 The NPPF, at paragraph 109, states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network are severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. Policy T16 of the Local Plan, adopted in 2003, states that development will not be permitted to provide more parking than the levels set out in an appendix and also 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.

4.2 The planning application is supported by a Transport Statement, travel plan and Parking Statement. The Parking Statement has been updated during the determination of the application following concerns raised by the Highway Authority (HA) and the level of objections regarding car parking and highways safety. A revised car parking layout has also been submitted which increases car parking provision within the site from 43 spaces to 55 spaces. Four spaces would be maintained

for no. 35 Clayton Road which are additional to the 55 spaces now proposed for the C2 apartment building.

4.3 The 55 spaces includes staff car parking for management, personal care, catering and building maintenance in shift patterns to provide continual care to residents. The application details that because the residents are receiving a care package they are unlikely to drive a car and parking provision will therefore be "largely for visitors, plus drop-off area for the taxis, ambulances etc. which will be residents' primary transport".

4.4 Access to the proposed development would utilise the existing single point of access onto Clayton Road but works to significantly modify the access would be required to serve the proposed development. These modifications were primarily approved when permission was granted for the recent hybrid planning application for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and outline planning permission for the erection of up to 20 dwellings.

4.5 It is acknowledged that the site is within 800 metres of Newcastle town centre and therefore offers an alternative to use of private motor vehicles by walking and cycling. There are bus stops directly outside of the site that also offer good public transport links to the wider area.

4.6 As discussed the building is for residential care accommodation with communal facilities on site that is likely to reduce the level of vehicle movements to and from the site. The proximity of the site to the town centre is also likely to reduce car ownership by future residents, albeit this is not guaranteed.

4.7 It is acknowledged that on street car parking, both on Clayton Road and the neighbouring residential streets, could be exacerbated by the proposed development if an acceptable level of off street car parking is not proposed. On street car parking, in particular on Clayton Road, could lead to significant highway safety implications from vehicles parking on this busy road into the town centre in the proximity of the traffic light junction. However, off street car parking has been increased to 55 spaces and the HA have now raised no objections to the application subject to conditions which should secure safe access arrangements. A travel plan and car park management plan, along with bus stop improvements and the availability of an onsite minibus for residents should all help reduce potential on-street parking demand

4.8 Subject to the advised conditions by the HA it is accepted that the application has demonstrated that the proposed development is unlikely to lead to severe cumulative impacts on the road network.

5.0 Would the impact on trees and ecology be adverse?

5.1 NLP Policy N12 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. N12 also states that where, exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

5.2 The vehicular access arrangements are similar to those permitted under the recent hybrid planning permission that granted the removal of a mature tree (T1) to ensure a more visually significant tree – a Horse Chestnut and a category B tree (T18) - could be retained. However, a pedestrian footpath from Clayton Road, which would allow disabled access to the entrance of the building, is also now proposed.

5.3 The Landscape Development Section (LDS) have raised objections to the application on the grounds that major works around tree T17 (Ash) and T18 (Horse Chestnut) are required due to the levels changes and the provision of the pedestrian and mobility scooter access. The loss or damage to either tree, both of which are classed as Category B trees, would be contrary to policy N12 of the local plan and would be harmful to the amenity of the area.

5.4 A number of trees on the site have been removed including some of moderate quality or are proposed to be removed to facilitate the proposed development but many trees on the eastern brookside boundary are to be retained. The loss of trees is unfortunate but they are not covered by a Tree Preservation Order and no consent was required to remove these trees. Replacement planting can also be secured by condition as part of a wider soft landscaping scheme which would build on the existing landscaping strategy plan that has been submitted which sets out that planting will be proposed to mitigate the impact of the development.

5.5 The applicant is satisfied that the pedestrian access works would not harm or result in the loss of T17 and T18 and they are seeking to demonstrate this.

5.6 An Ecology Appraisal has been submitted which sets out that there are no ecological statutory or non-statutory designations present within or adjacent to the site and it is considered that no such designations within the vicinity of the site will be significantly negatively impacted by the proposed development. Bat and bird boxes are advised and these can be secured by condition.

6.0 Is a footpath link to adjacent public open space necessary and justified?

6.1 The application site is adjacent to the Lyme Valley Parkway (Parkway) which is located beyond the rear boundary. However, there is no direct link from the application site to the public open space because the Lyme Brook separates the two and there are also trees and vegetation on the rear boundary of the site.

6.2 The possibility of a direct link from the application site to the parkway was explored during the consideration of the previous hybrid application (ref 17/00194/OUT) but this was discounted because any new footbridge over the Lyme Brook was only likely to benefit the future occupiers of the development, as opposed to providing wider community benefits. The existing footbridge off Tansey Way to south was considered to provide sufficient existing access to the Parkway for the wider community.

6.3 The matter now to be considered is: does the nature of the new proposals change the position from that previously permitted or not? On one hand the distance to the Parkway for future residents by reasons of restricted mobility is likely to be a greater obstacle to access. However the applicant has indicated that the average age of residents is normally 79 years old and the onsite landscaped gardens and their individual apartment balcony are likely to meet their individual needs and may not choose to use the Parkway anyway. Only a certain proportion would be likely to be physically able to access the Parkway anyway. On this basis, and on balance, your officers are of the opinion that a new footbridge is not justified in this instance. Any new footbridge would provide only limited benefits for future residents and none to the wider community who would not be able to use the footbridge. It would also not improve access to the town centre on foot significantly with the existing arrangements via Clayton Road being considered appropriate.

7.0 Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed development themselves?

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

7.2 As discussed, the scale of the proposed building would be 4-storeys in height but it would follow the gradient of the land, which slopes from west to east. The proposed building also acknowledges that there are existing residential properties beyond the northern and southern boundaries and the scale of the building seeks to reflect the potential impact on the residential amenity levels of neighbouring properties.

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

7.4 The proposed building includes a number of balconies and principal windows that would face towards neighbouring dwellings. These have the potential to result in a loss of privacy to neighbouring occupiers. In particular no. 1, 3 & 5 Chervil Close to the south and 2, 3, & 4 Dellbrook Court to the north have rear elevations that face towards the site and the proposed building, which will have principal windows in the facing elevations. The Council's SPG sets out that where principal windows face other principal windows a separation distance of 21 metres should be achieved, plus an additional 3 metres for each additional storey. Where principal windows do not directly overlook each other, for example on angled development sites, the 21 metre distance may be reduced to 17 metres, depending on height and topography.

7.5 There is a two storey element of the building close to the side (northern) boundary with properties on Dellbrook Court which does have a principal window (the main window of a second bedroom) but a separation distance of approximately 20.6 metres is considered acceptable due to ground levels and potential screening from landscaping. There is however a rear balcony at first floor which faces towards the Lyme Valley Parkway. The balcony would allow the future occupiers to have a restricted outlook towards no. 2 Dellbrook Court. A screen (attached to the side of the balcony) would address this issue and could be secured by condition.

7.6 There are balconies and principal windows in the northern elevation of the proposed building at first, second, third and fourth storey level that would directly face towards the rear elevations of no. 3 & 4 Dellbrook Court. The separation distances are between 30 and 40 metres which is considered to meet the guidance of the SPG.

7.7 There are also balconies and principal windows in the southern elevation of the proposed building at first, second, third and fourth storey level that would directly face towards the rear elevations of no. 1, 3 & 5 Chervil Close to the south. The separation distance for windows and balconies that directly face the existing properties is approximately 35 metres and the proposed building is on a much lower ground level than the existing properties and on this basis this separation distance complies with the SPG. However, there are also balconies and principal windows set at an angle to 1, 3 & 5 Chervil Close which are much closer. The angled separation distances are between 20 and 30 metres and one balcony raises concerns on the top (third) floor. A screen could be secured to restrict any overlooking from this balcony or the balcony could be removed altogether.

7.8 The proposed car park (and extended car park) would be immediately adjacent to the northern boundary which is shared with properties on Dellbrook Court. Due to site level differences the car parking area would be higher than the rear gardens of the existing residential properties. Site sections have been submitted which show the relationship of the car park with neighbouring rear gardens. The site sections show a difference in finished ground levels of just over a metre. A 1.8 metre high boundary fence would be erected which would prevent overlooking and car headlights shining into rear windows. The height of the fence would result in the occupiers of the neighbouring properties having an outlook towards a 2.8 metre high fence but this would be softened by landscaping. On this basis it is considered that the relationship between the car park would be acceptable and should not result in a significant and harmful impact to the living conditions of neighbouring occupiers. The submitted noise assessment also indicates that it is unlikely that noise from typical use of the car park spaces will result in noise disturbance to neighbouring properties.

7.9 The proposed development provides areas of communal landscaped gardens for the future residents which would be east facing and would get sunlight in the morning. There are also internal communal areas for the enjoyment of future residents. The outdoor space is considered limited but the financial contribution and distance to the public open space would give future residents an acceptable alternative.

7.10 Conditions advised by EHD regarding odour abatement and ventilation from the on site residents restaurant are also considered necessary, as are the other conditions advised. An underground pumping station is proposed close to the northern boundary with neighbouring properties also. EHD have requested details of any noise impact and potential odour. The applicant has submitted some information but it is considered that matters can be addressed by a suitably worded condition. Any further comments received from EHD prior to the meeting will be reported.

7.11 Subject to a condition that secures a method of minimising overlooking from certain balconies it is considered that the proposal accords with the Council's SPG. Furthermore, the proposed development should secure a good standard of amenity for all existing and future occupants of land and buildings, as required by the NPPF.

8.0 What planning obligations are considered necessary, directly related to the development

8.1 CSS Policy CSP6 states that residential development within the urban area, on sites of 15 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

8.2 In this instance the application is for a C2 residential care use – 75 apartments with care for the elderly. The application indicates that the C2 use would be occupied by persons aged 55 and over who are in need of care. The occupation of the development can be secured by an appropriately worded condition and a planning obligation to ensure that there is a restriction of the occupancy of the accommodation so that it falls within the C2 Use Class. On this basis, Housing Strategy advise therefore that the development would not need to provide affordable housing and this is consistent with the Affordable Housing SPD.

8.3 The LDS have requested a financial contribution of £3,519 per unit which takes into account the nature of the C2 use proposed, i.e. that the usual play and outdoor sports elements of a policy compliant contribution are not justified. The contribution towards POS is sought for improvements and enhancements to the Lyme Valley Parkway. However, the applicant has contested whether this request is CIL Regulation compliant. They do not consider that without this request the development is unacceptable in planning terms with many future residents having mobility issues and the onsite landscaped gardens would meet their needs. They also believe that it is a tariff style contribution and it is not directly related to the proposed development but is simply a desire to improve and enhance the Parkway.

8.4 Further information has been requested from the applicant with regards to the likely mobility of future occupiers to access the Parkway. They have indicated that in their experience 23% of residents would choose to go to the park and would be able to; 23% of residents could go to the park but would not necessarily choose to due to other interests/lifestyle choices; and 54% of residents would not be able to go to the park due to ill health/disability.

8.5 The amount of onsite landscaping/ amenity space for 75 apartments does appear limited and whilst most of the proposed apartments would have balconies that would offer some outdoor living space it is considered that the proposed development would put additional pressure on the infrastructure of the area, in particular the nearby Parkway. However, it is accepted that only 50% of residents of the scheme are likely to make regular use of the public open space and on this basis is considered that a financial contribution of £3,519 per unit for 37 apartments is justified. This results in a total contribution of £130,203 which is considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, to be directly related to the development and fairly and reasonably related in scale and kind to the development.

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

8.7 The LDS have indicated that the contribution would be used towards improving and enhancing the historic remains of the canal basin in the parkway, which is on the other side of the park and improvements would make it more accessible, particularly for future residents of the proposed development. Further details on this specific project have been sought but it is considered that Regulation 123 would be complied with.

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

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

Policy 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 CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N12	Development and the Protection of Trees
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other material considerations include:

National Planning Policy

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

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

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

Supplementary Planning Guidance/Documents

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

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

[Affordable Housing SPD](#) (2009)

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

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

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

Relevant Planning History

The site has been the subject of a number of previous planning applications related to the previous use of the site as a drug and alcohol rehabilitation centre which ceased in 2016. The buildings and site are now vacant. The last planning permission was a hybrid one for full planning permission for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and outline planning permission for the erection of up to 20 dwellings on the remaining part of the site, ref 17/00194/OUT.

A recent application for the prior approval for the demolition/ removal of buildings except for No.35 was permitted under reference 18/00586/DEM.

Views of Consultees

The **Highways Authority** raises no objections following the submission of an amended car parking layout which shows the provision of 55 spaces. The following conditions are advised;

- Submission and approval of access improvements;
- Visibility splays;
- Access, parking, turning and servicing areas;
- Submission and approval of a car park management scheme;
- Bus stop upgrades;
- Submission and approval of a travel plan;
- Submission and approval of secure weatherproof cycle parking;
- Submission and approval construction method plan.

A Travel Plan monitoring fee of £2,360 is also sought.

Staffordshire County Council Flood Risk Team advises that the submitted Flood Risk Assessment demonstrates that an acceptable Drainage Strategy can be achieved as part of the proposed development. Therefore, a condition to secure a detailed surface water drainage design is advised.

The **Environment Agency** raises no objections.

The **Environmental Health Division (EHD)** raises no objections subject to conditions related to construction, contaminated land, external lighting, odour abatement and ventilation, design measures to control internal noise levels, waste collection and deliveries, approval of external plant, electric vehicle charging provision. They also request further information regarding pumping station.

The **Landscape Development Section (LDS)** maintains objections and concerns to the proposed development due to a major increase in levels within the Root Protection Area of the important horse chestnut tree T18, on the frontage with Clayton Road, which would be likely to cause the demise of the tree and would not be acceptable. Excavation may also be necessary within the RPA of the ash T17. There are also concerns about trees on the important boundary to the Lyme Valley Parkway and which these concerns need to be addressed. Permission should be subject to provision of a dimensioned Tree Protection Plan and detailed Arboricultural Method Statement to BS5837:2012 for the construction phase of the scheme, details of all special engineering within tree RPAs and other relevant construction details, a schedule of works to retained trees, and an arboricultural site monitoring schedule.

They also request a financial contribution by the developer for capital development/improvement of off-site green space. This should be the full contribution less the play and outdoor sports items totalling £2,793 per dwelling, in addition to £726 pro rata per dwelling for 60% of maintenance costs for 10 years. Total contribution £3,519 per dwelling. This would be used to improve and enhance the Lyme Valley Parkway.

Severn Trent Water raises no objections subject to conditions which secure drainage plans for the disposal of foul and surface water flows, along with the implementation of the approved plans.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** advises that the site would appear to lend itself reasonably well to the construction of a specialist residential apartment block for the elderly. It is self-contained and enclosed on three sides with no through routes, which represents a strong starting point for future residents. However, improvements are recommended regarding boundary treatments, CCTV and general security.

Housing Strategy Section advises that due to the designation of the use class C2, affordable housing will not be applicable. However, an appropriately worded planning condition and obligation is

required to secure the future continuation of use of the development as C2 accommodation for the appropriate age group.

The **Waste Management Section** maintains concerns about the proposed waste collection and storage arrangements. They require assurances that 26 tonne freighters can manoeuvre around the car park and there are concerns about the dimensions of the bin store.

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

The County Archaeologist and The Newcastle South Locality Action Partnership (LAP) have been consulted on this application and have not responded by the due date and so it is assumed that they have no comments to make on the application.

Representations

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

- Loss of mature trees,
- The scale of the four storey building is not appropriate,
- Overdevelopment of the site,
- The building is out of character with the area,
- There is minimal landscaping proposed,
- Insufficient/ lack of car parking,
- The access arrangements are not adequate for the size of the development,
- Clayton Road is already dangerous with on street car parking problems,
- Flooding concerns and the impact on the Lyme Brook,
- Loss of privacy and light to neighbours,
- There are plenty of other similar developments in Newcastle without needing another,
- The existing bus stops will need to be upgraded but there is little room for improvements,
- Clarification of C2 use of the proposed building,
- Noise and disturbance from construction,
- The additional car parking is at the expense of landscaping which is not acceptable,
- The additional parking does still not address the issues,
- The Garden Storage Area has now been replaced with a pumping station on the revised plans with no noise and smell issues addressed,

Applicant/agent's submission

The application is supported by the following key documents;

- Planning Statement,
- Design and Access Statement,
- Revised Parking Statement,
- Care Statement,
- Transport Statement
- Revised Arboricultural Assessment,
- Flood Risk Assessment & Drainage Strategy,
- Air Quality Assessment,
- Noise Assessment,
- Ecology Appraisal.

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00693/FUL>

Background Papers

Planning file

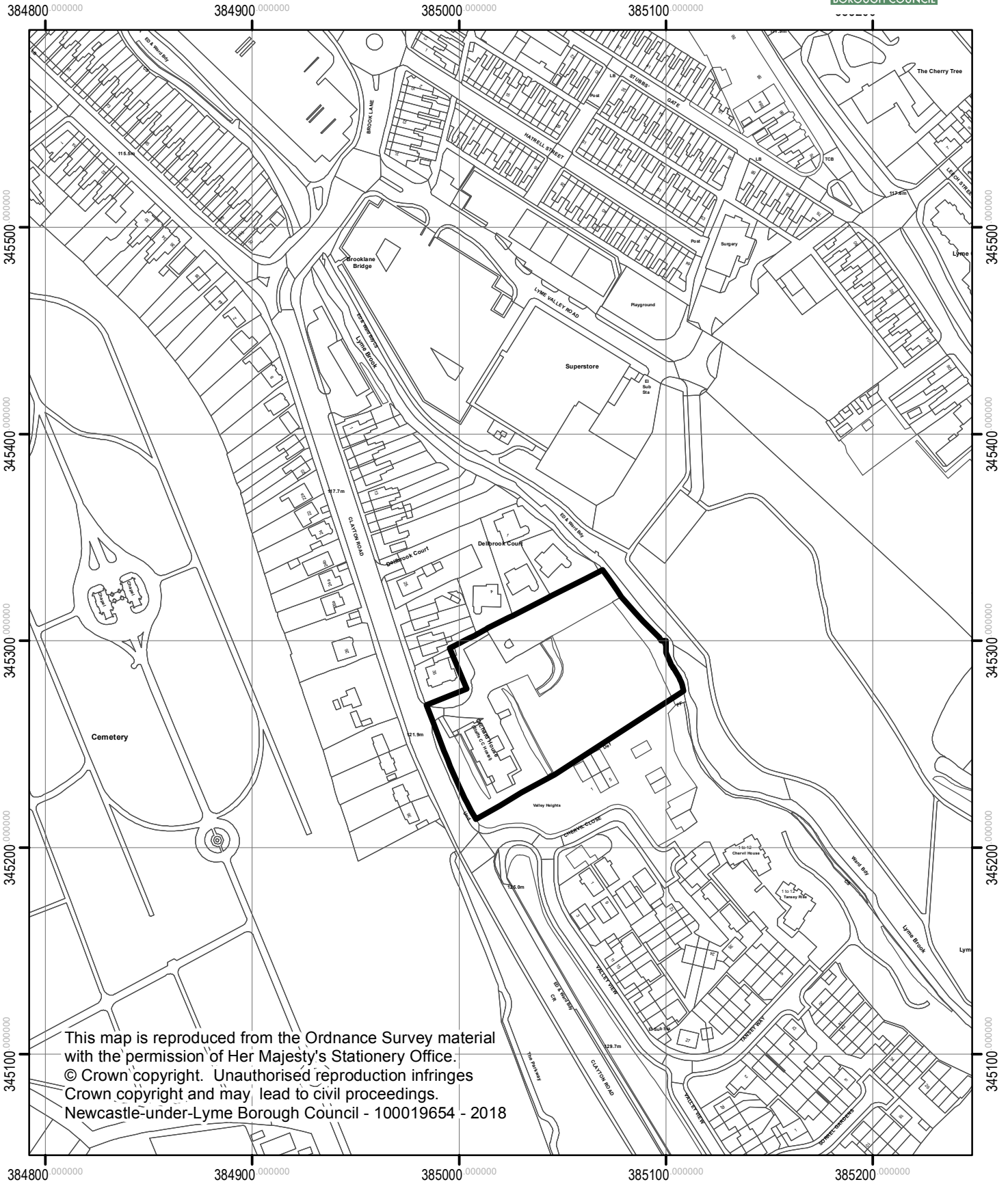
Planning documents referred to

Date report prepared

18th December 2018

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Orchard House, Clayton Road, Newcastle.



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 Newcastle-under-Lyme Borough Council - 100019654 - 2018

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**LAND SOUTH WEST OF MUCKLESTONE ROAD, WEST OF PRICE CLOSE AND NORTH OF MARKET DRAYTON ROAD, LOGGERHEADS
MULLER STRATEGIC PROJECTS LIMITED**

15/00202/OUT

Outline planning permission for residential development of up to 78 units including provision of affordable housing, public open space and vehicular and pedestrian accesses was granted in September 2015 following the completion of an agreement under Section 106 securing various planning obligations (Ref. 15/00202/OUT). Reserved matters were subsequently approved for 73 dwellings on part of the site in August 2018 (Ref. 18/00315/REM) and full planning permission (18/00314/FUL) for 5 dwellings on the remainder of the site was granted in November 2018 following the entering into of a Deed of Variation of the original agreement (to ensure that its provisions were triggered should the 5 house development be commenced). The development has commenced on the main part of the site.

The developer, Elan Homes Limited, is in the process of entering into a contract with a Registered Provider, Sage Housing, in relation to the affordable housing units and Sage is seeking some variations to the Section 106 agreement. This is an informal request rather than an application.

A similar request has been made with respect to a Unilateral Undertaking relating to the development at Gateway Avenue and that request is the subject of a separate report elsewhere on this agenda

RECOMMENDATION

That the developer be advised that the Council as the Local Planning Authority is willing to agree to the requested variations to the Section 106 agreement to allow staircasing to 100% of the market value and to vary the wording of the Mortgagee Protection Clause.

Key Issues

The variations that are requested are as follows:

- to remove the staircasing restriction (currently 90%) so that it is permitted to 100% of the market value
- to vary the wording of the Mortgagee Protection Clause

Staircasing

With respect to the shared ownership units on the development, the Section 106 agreement refers to qualifying persons purchasing initially up to 50% of the equity of the dwelling and to paying proportional rent, with the option of staircasing (increasing their equity share) but only up to 90% of the market value. Sage Housing have requested the removal of the current restriction to allow staircasing up to 100%. When the clause in question was drafted it was envisaged that it would keep the units affordable in perpetuity by allowing registered providers to be able to buy back these units and recycle them as "affordable" housing. Sage assert that the current restriction reduces the value of the units, could put off potential buyers who may wish to eventually own the property in its entirety and that allowing staircasing up to 100% will give tenants improved borrowing opportunities, because the restriction would cause some lenders to decline mortgage applications.

The model Section 106 agreement in the Council's Affordable Housing Supplementary Planning Document does not include the staircasing restriction to be found in the Mucklestone Road agreement. Rather it gives the option of staircasing to 100% of the market value, albeit there are references within the SPD to seeking "affordable housing in perpetuity". The fundamental issue now for the Local Planning Authority is whether in practice such a restriction is affecting the delivery of these shared ownership units, because it is putting off Registered Providers. Facilitating the delivery of affordable housing should be a key objective for the Council. Sage's concerns that the restriction is potentially having an adverse impact upon both the number of households likely to buy such units and on the number of lenders likely to lend on such units are considered to be credible. Furthermore the content of the SPD (a document that was the result of consultation) should be accorded due weight.

For both of these reasons it is considered that the restriction should be removed and staircasing permitted to 100%.

Mortgagee Protection Clause

Sage Housing are also asking that the Borough Council agree to amendments to the Mortgagee Protection Clause within the Affordable Housing Schedule to the agreement. A number of amendments are requested including a change to the definition of "Mortgagee" and the deletion/amendment of various wording due to concerns that current wording will be considered too onerous by lenders. Due to the number of amendments, they request the replacement of the relevant Clause 5 in its entirety with standardised wording developed by the Securitisation Working Party which includes lawyers, borrowers and valuers.

Officers consider that the proposed amendments, which are minor in nature, are intended to bring clarity to Clause 5 and have no material bearing upon the obligation sought. On this basis, it is recommended that the request to vary the agreement is agreed.

APPENDIX

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

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

Policy CSP6: Affordable Housing

Policy CSP10: Planning Obligations

Other Material Considerations

National Planning Policy Framework (NPPF) (2018)

Planning Practice Guidance (PPG) (2014, as amended)

Supplementary Planning Documents/Guidance

Affordable housing SPD (2009)

Views of Consultees

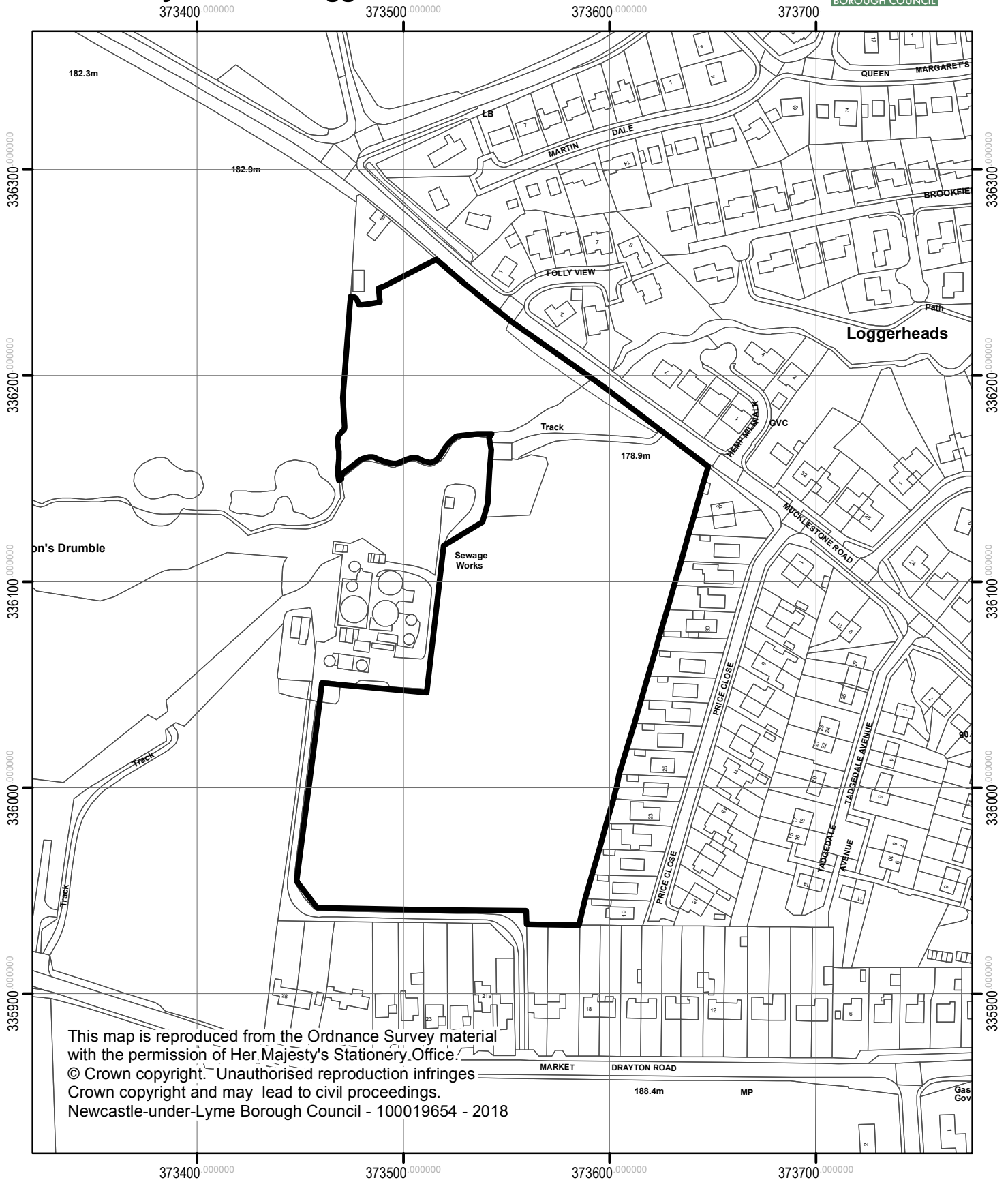
None undertaken

Date report prepared

20th December 2018

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Land South West Of Mucklestone Road, West Of Price Close And North Of Market Drayton Road Loggerheads



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**LAND AT END OF GATEWAY AVENUE, BALDWIN'S GATE
KIER LIVING LTD**

13/00426/OUT

Outline planning permission was allowed on appeal in January 2015 for the erection of up to 113 dwellings on land at the end of Gateway Avenue, Baldwin's Gate (Ref. 13/00426/OUT). Reserved matters were subsequently approved for 109 dwellings in October 2016 (Ref. 16/00676/REM) and the development is underway with some houses completed. Prior to the grant of the outline planning permission a Unilateral Undertaking was entered into which secured, amongst other things, 16% of the dwellings on-site as affordable units, with some of these being shared-ownership units.

The developer is in the process of entering into a contract with Aspire Housing in relation to the on-site affordable housing units and Aspire are asking the Council to clarify the position with regards to staircasing. Staircasing describe the process whereby those in shared-ownership units increase the percentage of the value of the property that they own, as opposed to rent from a Registered Provider

This is an informal request rather than an application.

Members will note that a request in relation to the same staircasing restriction has been made with respect to a Section 106 agreement for a development at Loggerheads and a report on that request is to be found elsewhere on this agenda.

RECOMMENDATION

That Aspire be advised that the Council as the Local Planning Authority is willing to agree to a variation to the Unilateral Undertaking so that staircasing to 100% of the market value is permissible.

Key Issues

A clause (4.3) within the relevant Schedule (No.2) of the Unilateral Undertaking that was entered into prior to the granting of the outline permission refers to staircasing up to 100%. However in the same document in the definition of Shared Ownership Units there is reference to the purchase of additional shares (staircasing) up to a level determined by agreement and to the "option of staircasing to 90% of market value". Aspire's solicitors are proposing certain amendments to rectify what they consider to be an error in the document – such variations if accepted would enable staircasing up to 100%.

Aspire's solicitors do not advance any argument as to why 100% staircasing is acceptable – presumably because they do not consider that to be necessary. If legal advice is received that this is the case that will be reported to the Committee.

Working on the assumption that there is however a substantive issue here it is considered appropriate to draw members attention to the case that has been made by another Registered Provider with respect to the same 90% staircasing cap (in the case of an agreement with respect to land at Loggerheads) and which is the subject of a separate report on this agenda.

The Unilateral Undertaking was drawn up, by the then appellants (Richborough) and submitted as part of the appeal proceedings

When your officers advised, as required, on the terms of the Unilateral Undertaking, the 90% staircasing restriction would have been considered appropriate on the grounds that it would keep the units affordable in perpetuity by allowing registered providers to buy back these units and recycle them as affordable housing.

The Inspector in his decision letter makes no specific comment either way with respect to this restriction.

It is known that Registered Providers are of the opinion that the 90% restriction reduces the value of the units, could put off potential buyers who may wish to eventually own their properties fully and that

allowing staircasing up to 100% will give tenants improved borrowing opportunities, because the restriction would cause some lenders to decline mortgage applications.

The model Section 106 agreement in the Council's Affordable Housing Supplementary Planning Document does not include the staircasing restriction to be found in the Mucklestone Road agreement. Rather it gives the option of staircasing to 100% of the market value, albeit there are references within the SPD to seeking "affordable housing in perpetuity". The fundamental issue now for the Local Planning Authority is whether in practice such a restriction is affecting the delivery of these shared ownership units, because it is putting off Registered Providers. Facilitating the delivery of affordable housing should be a key objective for the Council. Registered Providers' concerns that the restriction is potentially having an adverse impact upon both the number of households likely to buy such units and on the number of lenders likely to lend on such units are considered to be credible. Furthermore the content of the SPD (a document that was the result of consultation) should be accorded due weight. For both of these reasons it is considered that the restriction should be removed and staircasing permitted to 100%.

APPENDIX

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

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

Policy CSP6: Affordable Housing

Policy CSP10: Planning Obligations

Other Material Considerations

National Planning Policy Framework (NPPF) (2018)

Planning Practice Guidance (PPG) (2014, as amended)

Supplementary Planning Documents/Guidance

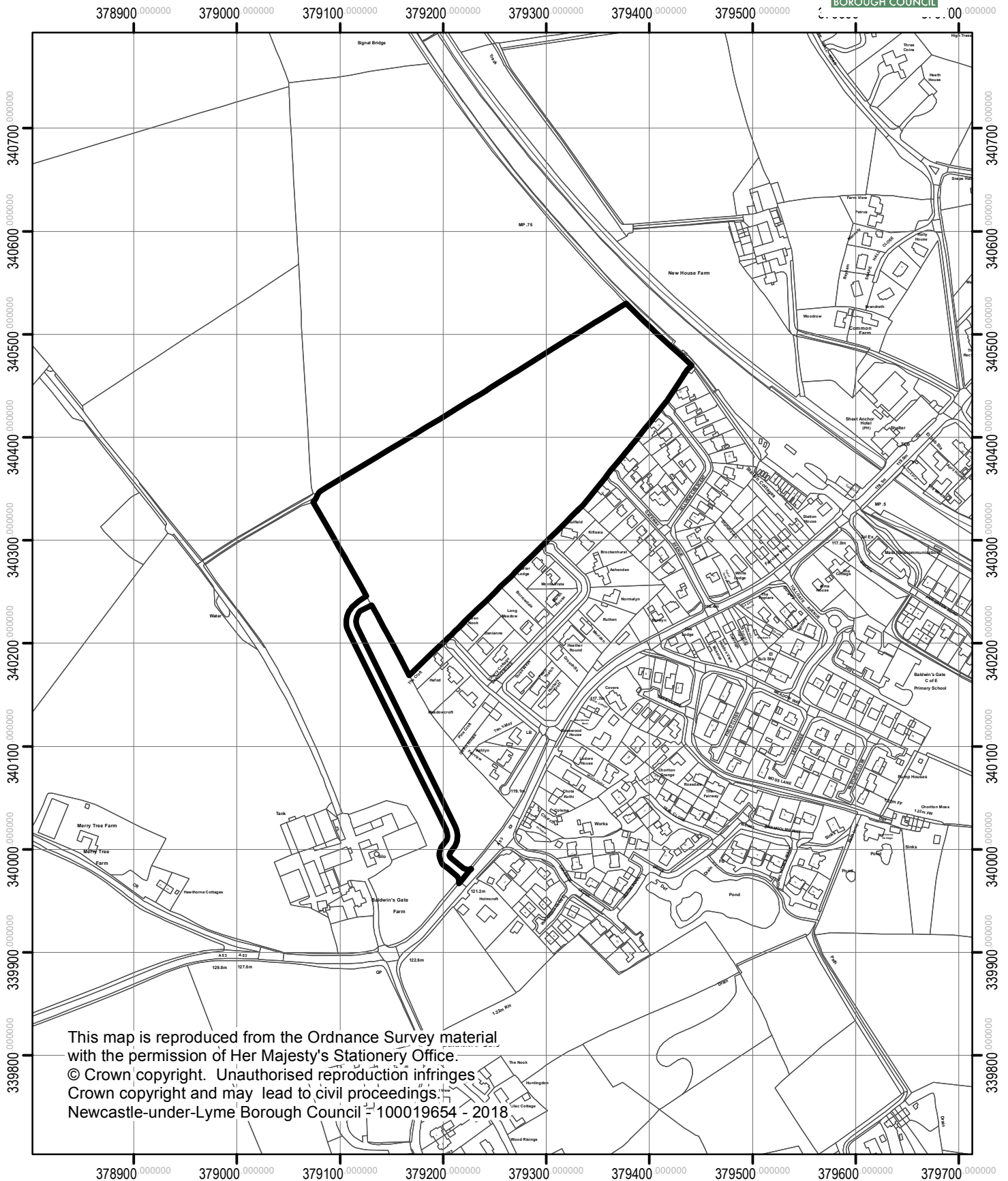
Affordable housing SPD (2009)

Date report prepared

20th December 2018

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Land at Gateway Avenue Baldwins Gate



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FORMER SAVOY CINEMA/METROPOLIS NIGHTCLUB, 72, HIGH STREET, NEWCASTLE
MODULTEC INTERNATIONAL LTD & METROPOLIS STUDENT LTD

18/00483/FUL

The application is for full planning permission for the erection of a part 9, part 12 storey building to provide 211 rooms of student accommodation.

Pedestrian access to the site would be via The Midway. No parking provision is proposed within the site. Cycle storage for 106 cycles is proposed.

The site lies within the Newcastle Town Centre Conservation Area and the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as lying within the Town Centre Historic Core.

The nearest Listed Building to the application site is the Guildhall.

The 13 week period for the determination of this application expired on the 8th October but an extension of the statutory period to 9th January 2019 has been agreed by the applicant.

RECOMMENDATION

A) Subject to the applicant entering into a Section 106 obligation by agreement by 14th February 2019 to require:

- i. a free bus pass to each student for travel to the Campus at Keele University, Staffordshire University, Stoke-on-Trent College or the Royal Stoke University Hospital**
- ii. a financial contribution of £22,200 towards the enhancement of public open space**
- iii. £2,200 towards travel plan monitoring**
- iv. £8,000 towards the ongoing maintenance of the Real Time Passenger Information system for bus services**
- v. £10,600 towards improvements to the cycle route from Newcastle town centre to Keele University**
- vi. £11,000 towards public realm improvements in the vicinity**
- vii. A review mechanism of the scheme's ability to make a more or fully policy compliant contribution to public open space if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution if then found financially viable**

Permit, subject to conditions relating to the following matters:-

- Commencement time limit**
- Approved plans**
- Report of unexpected contamination**
- Construction environmental management plan**
- Noise from plant and mechanical ventilation,**
- Ventilation provision to habitable spaces**
- Glazing specification**
- Occupation by students only**
- Secure cycle parking in accordance with approved details**
- Travel plan**
- Facing and external surfacing materials**
- Sample panel to be retained on site**
- Details of window reveals**
- Detailed surface water drainage scheme**
- Archaeological evaluation**
- Provision of security measures to alleyway including a gate and lighting**
- Security measures to the building**
- Telecommunications apparatus**

B) Should the above Section 106 obligations 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, the public realm and safety improvements required to secure an appropriate context for the development and inclusive development would not be achieved, and the public open space impacts of the development would at least in part be met, and there would not be an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of a policy compliant financial contribution towards public open space; or, if he considers it appropriate, to extend the period of time within which the obligations can be secured.

Reason for Recommendation

The site is located in a highly sustainable location within Newcastle town centre. The benefits of the scheme include the provision of student accommodation within an appropriate location making use of

previously developed land. The introduction of such accommodation in this location should also benefit the town centre, making it a more vibrant place. Having regard to the conclusions of the Inspector in relation to the previous scheme for this site, your Officer considers that the current proposal would be of an acceptable scale and massing that would preserve the character and appearance of the Conservation Area and would have no adverse impact on the setting of the Listed Buildings. The statutory requirement to pay special attention to such matters is considered to be met. The proposed materials are considered appropriate subject to the imposition of conditions to ensure that the architectural details, materials and finishes are of a high standard. Acceptable residential amenity would be provided for the occupiers of the building and given the highly sustainable location of the proposed development and having regard to the conclusions of the Inspector in relation to the previous scheme, it is not considered that the lack of parking within the application site would have any significant adverse impact on highway safety so as to justify a refusal on such grounds.

It is accepted, following the obtaining of independent financial advice, that a policy compliant scheme is not viable and that the scheme can sustain reduced contributions but the benefits of the development are considered to outweigh the harm caused by the additional demand created by the development on the public open space in the area. A Section 106 agreement is required to secure those policy compliant contributions which can be afforded and a viability review mechanism should substantial commencement not be achieved promptly.

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

Officers have worked with the applicant to address all issues and the application is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Key Issues

Full planning permission is sought for the erection of a part 9, part 12 storey building to provide 211 rooms of student accommodation, communal areas, a laundry and bike storage.

The site lies within the Newcastle Town Centre Conservation Area and the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as lying within the Town Centre Historic Core.

Full planning permission was allowed at appeal earlier this year for the demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a 13-storey student accommodation building (Ref. 17/00174/FUL) of a maximum height of 37.5 m.

The main issues in the consideration of the application are:

- Is the principle of the proposed development on the site acceptable?
- Is the proposal acceptable in terms of its impact on the form and character of the Conservation Area and nearby Listed Buildings both in relation to the loss of the existing building, and the proposed development itself?
- Are acceptable residential amenity levels achieved for the occupiers?
- Are crime prevention/security considerations appropriately addressed within the development?
- Is the proposal acceptable in terms of highway safety and sustainable travel initiatives?
- What, if any, planning obligations are necessary to make the development policy compliant and would some lesser or nil contributions be justified given issues of viability?

1. Is the principle of the proposed development on the site acceptable?

1.1 In relation to the previous consent for this site (Ref. 17/00174/FUL), neither the Council in refusing the scheme or the Inspector in allowing the appeal, raised any objection to the principle of residential development in this location.

1.2 Since the previous scheme was considered and the appeal decision was received, a revised NPPF has been published (July 2018). There is nothing in the revised NPPF on this matter to suggest that there is a basis for the Local Planning Authority to reconsider its position on this issue.

1.3 This is a previously developed site in a highly sustainable location within the urban area. The site is in easy walking distance of the shops and services of Newcastle Town Centre with regular bus services to destinations around the borough, including Keele University, and beyond. It is considered that the site provides a sustainable location for additional residential development that would accord with the Town Centre SPD.

2. Is the proposal acceptable in terms of its impact on the form and character of the Conservation Area and nearby Listed Buildings both in relation to the loss of the existing building, and the proposed development itself?

2.1 Local and national planning policies seek to protect and enhance the character and appearance of Conservation Areas and development that is contrary to those aims will be resisted. There is a statutory duty upon the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of Conservation Areas in the exercise of planning functions.

2.2 The former Savoy Cinema, a large brick building that was constructed in 1913, is currently being demolished - part of having been deemed under the Building Act to be a dangerous structure. Consent for the demolition of the building was granted under the appeal scheme.

2.3 The NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

2.4 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset such as a Conservation Area, Listed Building or Registered Park and Garden, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

2.5 Saved NLP Policy B9 states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B14 states that in determining applications for building in or adjoining a Conservation Area, special regard will be paid to the acceptability or otherwise of its form, scale and design when related to the character of its setting, including, particularly, the buildings and open spaces in the vicinity. These policies are all consistent with the NPPF and the weight to be given to them should reflect this.

2.6 The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) states in HE4 that new development in a Conservation Area must preserve or enhance its character or appearance. It must:-

- a. Where redevelopment is proposed, assess the contribution made by the existing building to the character or appearance of the Conservation Area and ensure that the new development contributes equally or more.
- b. Strengthen either the variety or the consistency of a Conservation Area, depending upon which of these is characteristic of the area.
- c. The development must not adversely affect the setting or detract from the qualities and significance that contribute to its character and appearance.

2.7 The site slopes up from the Midway towards High Street, but does not itself front onto the High

Street, being set behind the buildings occupied by Clinton Cards and the HSBC (No's 70 and 74 High Street). To the south-east of the site on the same side of the Midway there are two and three storey buildings, to the north-west is the Roebuck Centre building and overbridge, and to the south is Blackburn House which is 8 storeys in height and the Midway multi-storey car park. Overall there is a varied context within which the proposed building is set in terms of the scale and height of the buildings.

2.8 The proposal is to construct a building of between 26m and 34.5m in height. The elevation closest to High Street would be 9 storeys and the elevation closest to The Midway would be 12 storeys. It would be constructed from a series of modular units which would be pre-fabricated off site. A single access point is proposed from the Midway with a lobby/reception at the entrance and the plant, refuse, laundry and bike stores sited to the rear of the ground floor. Each of the 211 studios proposed would feature an en-suite bathroom and kitchenette facilities.

2.9 The predominant materials would comprise brick and metal cladding with a contrast provided between a lighter tone of brick with dark grey industrial cladding on the top two floors. The roof level would be stepped back and sections of brick detailing are proposed to help break up the massing of the building.

2.10 The Town Centre SPD states that the Town Centre's historic character and identity, with its special distinctiveness as a market town, is an asset that needs to be conserved and enhanced. Development must be designed to respect, and where possible enhance, its surroundings and contribute positively to the character of the Town Centre, helping to improve its image and identity, having particular regard to the prevailing layout, urban grain, landscape, density and mix of uses, scale and height, massing, appearance and materials.

2.11 The SPD states that while elsewhere there are opportunities for taller buildings on suitably located sites, the historic core is very sensitive, and runs the risk of being undermined by buildings that are too high or too low. It states that the need to safeguard important views will also be a key issue on determining acceptable heights. It goes on to state that existing landmark buildings and features provide orientation within the town and are important at both a strategic and local level. They should be protected and enhanced and so new development should not detract, nor compete with them. Important views should not be obscured. Both St. Giles' Church and the Guildhall are identified as existing tall landmark buildings which are Listed.

2.12 Both the height and the massing of the building have been reduced compared to the scheme that was allowed at appeal (17/00174/FUL) and which as an extant planning permission and a fallback position is a significant material consideration in the determination of this current planning application. That proposal had a maximum height of 37.5 m. As the site is located within the Town Centre, views would generally be screened by existing development. The lower floors would only be visible from the Midway and from many other locations, the development would be either screened by intervening development or would be viewed in the context of the existing development including the Vue Cinema, Morston House, Blackburn House (now known as Keele House), and Midway Car Park. Given that the height and the massing of the building have been reduced, the impact of the building in views within and around the town has been reduced.

2.13 The Conservation Officer considers that the height reduction has made a significant difference to the impact the proposal would have on the character and appearance of this part of the town centre and that there is unlikely to be any harm in this character area. The character area around the Midway will gain an active frontage and that will also improve the appearance of the area. The brick detailing is supported, deep window reveals will create a higher quality building and perforated brick on the entrance is a good feature to create interest and light. It is considered that the brick detailing will be effective. Historic England states that this scheme would have a less harmful impact than previous proposals for the site.

2.14 The Urban Vision Design Review Panel (UVDRP) state that the reduction in height and footprint and the amendments to external materials are supported. They state that the simple use of materials of the brick elevations, with patterned and relief sections is welcomed but that further consideration might be given to the changes of colour and self-conscious patterning of the facades and the need for screening to the roof top areas.

2.15 In allowing the appeal proposal the Inspector stated as follows:

“I observed at my site visit that in its town centre location the views of the new development would largely be screened by existing buildings in the area. In my view it would be seen in the context of existing buildings around the Midway, including the modern cinema, the car park opposite and Keele House. The effect on key views from the High Street area has been mitigated by stepping down the building towards the High Street which would help to integrate the building into its sensitive surroundings. Therefore, the overall scale and massing of the building as evidenced by the appellant’s Visual Impact Assessment, would not over dominate views towards the town centre and its sky line.

It appears to me that the building would have some adverse impacts on longer distance views towards the Town Centre, However, I am satisfied that the most important listed buildings in the locality; the Guildhall and St Giles Church would retain their status as particularly prominent, important and distinctive buildings in relation to the sky line. Their profiles and character would not be compromised or lost against the proposed development.”

2.16 Given the conclusions of the Inspector in relation to the previous scheme, your Officer considers that the current proposal would be of an acceptable scale and massing that would preserve the character and appearance of the Conservation Area and would have no adverse impact on the setting of the Listed Buildings. The statutory requirement to pay special attention to such matters is considered to be met. The proposed materials are considered appropriate subject to the imposition of conditions to ensure that the architectural details, materials and finishes are of a high standard.

3. Are acceptable residential amenity levels achieved for the occupiers?

3.1 The application site is located within the Town Centre in between the Midway, a road within the ring road that primarily provides access to the Midway car park and to service areas, and the High Street, a pedestrianised shopping street. The site is not within a residential area and as it does not directly adjoin any residential properties, it is not considered that the development will result in the loss of amenity for any nearby residents.

3.2 The area is predominantly commercial in nature and therefore external noise levels from road traffic noise, noise from external air handling plant and night time noise during the weekend are likely to affect the living conditions of the occupiers of the development. The application is accompanied by a Noise Impact Assessment which concludes that through the incorporation of noise mitigation into the design of the building, acceptable noise levels would be achieved within habitable areas. The Environmental Health Division (EHD) has no objections from a noise perspective subject to conditions.

3.3 The UVDRP express concern that privacy is severely compromised for several of the proposed bedrooms at mezzanine level adjacent to the public walkway (north-west elevation) and that some of the bedrooms on the south-east elevation would have no outlook and would be severely overshadowed by the proximity of the adjacent building. Notwithstanding the views of Urban Vision, it is considered that the residents of all rooms would have an acceptable outlook and level of amenity even taking account of the close proximity of the development to existing buildings, provided improvements to the immediate public realm were achieved. The building itself with its external lighting, all round activity and natural surveillance will help “lift” the area. Whilst there is very little outside amenity space proposed, occupiers would be within close proximity to a number of open spaces and parks within and around the town.

3.4 Overall it is considered that the development could provide acceptable living conditions for its occupiers.

4. Are crime prevention/security considerations appropriately addressed within the development?

4.1 The Crime Prevention Design Advisor has raised concerns regarding the lack of reference in the application to security measures and states that the Local Planning Authority should ensure that

appropriate measures will be in place and obvious potential vulnerabilities addressed before granting planning permission.

4.2 Additional information has been submitted by the applicant who has advised that there will be a 24 hour security service. Access via the main entrance will be by key fob and then a secondary layer of security is proposed with access from the foyer to the stairs and lifts via an additional key fob access. There will be a staffed reception desk and the accommodation manager's office will have CCTV to allow monitoring of the main entrance and communal areas. The CCTV and the access control system will be professionally maintained.

4.3 The Highway Authority has expressed concern that some of the existing streetlights along the walkway along the north-western elevation of the building have been removed. They state that this will leave pedestrians vulnerable and therefore request that replacement street lighting should be provided. The applicant has advised that the walkway would be improved by the incorporation of low level wall lighting and low level planting. The walkway is currently closed off in the evening by town centre wardens from the High Street entrance (between the units currently occupied HSBC Bank and Clinton Cards) however the access from the Midway remains open. To increase the security of the bedrooms on the ground floor it is proposed to incorporate a gate on the Midway entrance and fence along the open side of the walkway so as to completely close it off during the evening. Your Officer considers that this is necessary to ensure an appropriate level of amenity for the occupiers of the rooms immediately adjacent to the walkway and it is considered that such measures would need to be secured by a Grampian style condition.

4.4 These proposals to improve the alleyway are welcomed. Restricting access during the evening/night has definite community safety benefits and reduces anti-social behaviour opportunities. Incorporating a gate at the Midway entrance to the walkway and fencing along its length to close off access during the evening/night should be beneficial for students living on lower floors.

4.5 It is considered that the building will be suitably secured and appropriate crime prevention measures adopted. A condition could be imposed to ensure such measures are provided. In addition, the presence of the building will significantly increase the natural surveillance of the Midway, the adjacent walkway and the Midway car park.

4.6 The scheme no longer provides direct pedestrian access from within the building out onto the High Street and this means that once the alleyway is closed access to the High Street would have to be via The Midway southwards and then up Friars Street or northwards along the Midway and then up Pepper Street. This issue is addressed further below in the context of required planning obligations.

5. Is the proposal acceptable in terms of highway safety and sustainable travel initiatives?

5.1 Based on the maximum parking standards in the Local Plan relating to student accommodation expected to be provided by Keele University (the closest comparison), the development should not be permitted to provide more than 53 spaces according to the Local Plan. No parking is proposed within the site.

5.2 Saved NLP Policy T17 states that development in Newcastle Town Centre within the ring road will not be permitted to provide new private parking but will be required, where appropriate, to contribute to appropriate improvements to travel to the development. The policy identifies what such improvements may include. Policy T16 of the Local Plan 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 NPPF, at paragraph 109, states 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 of development would be severe. Paragraph 110 states that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, and second to facilitating access to high quality public transport. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure

that there is adequate parking provision both in new residential developments and around town centres and high streets.

5.3 The submitted Transport Statement states that the operator of the accommodation would organise arrivals and departures and that this would be undertaken through the Travel Plan. It is stated that both Keele and Staffordshire Universities operate a controlled parking scheme on their campuses as there is only a limited number of parking spaces available for students. The applicant has agreed to provide parking for 5 vehicles for mobility impaired drivers at the Midway multi-storey car park. Any students who have access to a car would be provided with an opportunity to buy an annual season car park pass. However Members should avoid giving any particular weight to this approach in their decision as there is no suggestion that the Highway Authority considers that a planning permission should be subject to a condition requiring the provision of such permits.

5.4 Approximately 106 cycle spaces would be provided within the site and the applicant has offered to provide free bus passes to cover travel from the site to the Universities.

5.5 There is a very good bus service between the town centre and the University Campus or Staffordshire University, and very limited parking is available to students at both Staffordshire and Keele Universities – all of which would influence students to leave any vehicle they may have at home. In addition there is a wide range of facilities and services within a very short distance of the site that can be accessed more easily on foot than car. Such factors will encourage student occupiers to not have a vehicle.

5.6 The Highway Authority has considered the sustainable location of the site and has no objections subject to a number of conditions including one requiring the submission, approval and implementation of a Travel Plan to promote travel by sustainable transport modes. They have also requested a number of Section 106 contributions which will be considered in detail in Section 6 of the report.

5.7 In allowing the appeal for the previous scheme (Ref. 17/0174/FUL), a scheme that similarly included no on-site parking provision, the Inspector agreed that the University's measures to discourage students from driving to campus and parking their vehicles will have some effect of discouraging students bringing their cars to their place of study. He acknowledged that measures can be secured through conditions and the section 106 agreement which will encourage the use of more sustainable methods of transport such as free bus passes, provision of on-site cycle storage, travel plan monitoring and real time passenger information systems.

5.8 The Inspector acknowledged that it is inevitable that some students will wish to use their own vehicles and may wish to park in unrestricted residential streets but concluded as follows:

Given the provisions of the Framework in the light of the Written Ministerial Statement and the package of measures that can be put in place to encourage the use of more sustainable means of transport I have insufficient evidence that in this particular case the proposal would be likely to have a harmful effect on highway safety resulting from additional demand for on-street parking.

5.9 Having regard to the conclusions of the Inspector in relation to the previous scheme and given the highly sustainable location of the proposed development, it is not considered that the lack of parking within the proposal would have any significant adverse impact on highway safety so as to justify a refusal on such grounds.

6. What, if any, planning obligations are necessary to make the development policy compliant and would some lesser or nil contributions be justified given issues of viability?

6.1 Section 122 of the Community Infrastructure Levy Regulations states that planning obligations should only be sought where they meet all of the following tests:

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

6.2 The Landscape Development Section (LDS) has requested a contribution of £205,535.10 towards public open space improvements and maintenance which would be used for town centre greenspaces, Queen Elizabeth Park and/or Queens Gardens.

6.3 The Highway Authority (HA) also requests a number of financial contributions. They request a travel plan monitoring fee of £2,200, the provision of a free bus pass to each student for travel from Newcastle Town Centre to Keele University, Staffordshire University, Stoke-on-Trent College or The Royal Stoke University Hospital, a contribution of £8,000 towards the ongoing maintenance of the Real Time Passenger Information (RTPI) system for bus services, and a financial contribution of £10,600 to provide improvements to the cycle route from Newcastle town centre to Keele University.

6.4 In allowing the appeal for the previous scheme (Ref. 17/0174/FUL) the Inspector considered the travel plan monitoring fee, the bus pass, the contribution towards the RTPI system and the public open space contribution to meet the CIL Regulations Section 122 tests in that they were necessary, directly related to the development and fairly and reasonably related in scale and kind to the development.

6.5 With regard to the contribution towards improvements to the cycle route from Newcastle town centre to Keele University, the Inspector expressed concern that the overall cost of the project was just an estimate and that there was no evidence of how the figure per cycle space related to the delivery of the cycle route improvements. As such, while he appreciated that residents may benefit from the route, he considered that there was insufficient evidence before him to justify how the contribution was related in scale and kind to the development.

6.6 The Highway Authority has advised that the cycleway is currently a committed scheme that has been approved by the Highway Authority and is due to be implemented when sources of funding have been clarified. The route, which is a key strategic link, has been agreed with Sustrans and is included as a Priority for Funding in the published Newcastle Integrated Transport Strategy 2015-2026. The cost of its delivery is expected to be approximately £100,000. Its prime purpose is to provide a direct link between the Town and Keele University for the benefit of University students. On the basis that the cycleway would be used by the occupants of the development, the Highway Authority considers it reasonable to request a contribution of £100 per cycle space leading to a contribution of £10,600 which is only approximately 10 per cent of the total cost of the cycleway. They state that further similar contributions have previously been and are to be sought in future from other proposals for student accommodation in the Newcastle-under-Lyme town centre where students will be users of the cycleway.

6.7 The Highway Authority has confirmed that the cycleway is a committed scheme and that the approximate cost of the project is known. Although the Inspector raised concerns regarding how the figure per cycle space related to the delivery of the cycle route improvements, there is nothing set out for the Highway Authority to refer to and therefore they have no alternative than to adopt a figure that they consider to be reasonable. The number of cycle spaces (106) accords with the minimum cycle parking standards in the Local Plan which for student accommodation recommend 1 cycle space per 2 students. A figure of £100 contribution per cycle space has been applied for other developments in the town centre and appears to be a reasonable figure. It is considered therefore that notwithstanding the concerns of the Inspector, that the contribution of £10,600 meets the relevant tests.

6.8 The Council's Supplementary Planning Document for Developer Contributions refers to contributions towards public realm improvements as being a type of developer contribution that the Council is likely to seek. The environment along The Midway, particularly under the Roebuck Centre, is dominated by service yards and is currently rather unattractive to users as it is dark and secluded. The Council's case for the appeal sought a contribution of £47,000 towards public realm improvements in the vicinity of the site. £5,000 of that sum was for the landscaping and maintenance of the area adjacent to the site, £21,000 was for missing dropped kerbs on the Midway, £6,000 for improving lighting under the adjacent Roebuck overbridge and £15,000 for improvements to a nearby underpass. The Inspector did not consider that the paving, lighting and underpass works met the relevant tests but he did agree that the £5,000 for landscaping and maintaining the land adjacent to the site was necessary. Importantly and contrary to the appeal scheme, the current scheme does not propose any pedestrian access to the building from High Street. This would mean that once the walkway that runs along the side of the building is closed off in the evenings, residents would have no

alternative but to use The Midway. Walking from the north-west, this would involve walking under the overbridge past the area to the rear of Roebuck Shopping Centre which as stated above, is particularly unattractive, being dark and secluded. This is a material change in circumstances and it is considered that lighting under the Roebuck overbridge should be improved. A financial contribution of £11,000 towards public realm improvements in this area (£5,000 for improving the land adjacent to the site and £6,000 for improving lighting) is considered necessary to create a more attractive and user-friendly environment for occupants of the building, a sense of place and to create an inclusive development.

6.9 A Viability Assessment has been submitted with the application which asserts that the proposed scheme cannot support the payment of any Section 106 contributions without being rendered unviable. Initially the applicants indicated that they would nevertheless be prepared to offer a sum of £15,000 by way of a Section 106 Contribution as a gesture. The information submitted has been sent by your officers to an independent valuer who has the skills required to assess financial information in connection with development proposals. The report of the District Valuer has been received and considered. The report concludes that a policy compliant scheme is not viable and that the scheme can in financial terms sustain circa £54,000 of contributions (as opposed to the £237,335 of contributions that a policy compliant scheme would require). The applicants don't agree with certain aspects of the District Valuers appraisal, believing that he has overestimated the value of the scheme, but because timewise they are at risk of not completing the development by August 2020, they have indicated that they are prepared, provided there is no further delay, to enter into an agreement securing £54,000 of contributions.

6.10 The revised NPPF marks a significant change in the approach to be adopted to viability in planning decisions. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised.

6.11 The scheme does provide benefits, which include the provision of student accommodation within a highly sustainable location making use of previously developed land. The introduction of such accommodation in this location should also benefit the town centre, making it a more vibrant place. Members will also be aware that such purpose built student accommodation developments are now viewed as making a contribution, albeit not on a 1:1 basis, both to the Borough Council's housing land supply position and its housing delivery performance, in that they release market housing. The contribution from purpose built student accommodation makes up about one third of the expected delivery of housing within the Borough over 5 year period commencing 1st April 2018. Maintaining and indeed boosting the delivery of housing should be a key objective of the Council. These benefits are considered to outweigh the harm caused by the additional demand created by the development on the infrastructure of the area that would be the result were a much reduced financial contribution be made.

6.12 If the Committee are prepared to accept the above conclusions, they can either reduce all of the contributions that are required by the same proportion (77%), or they can 'ring-fence' and protect one or more of the contributions and allow others to be even more substantially reduced or not obtained at all. The Council has no agreed formal "hierarchy of need" in its Developer Contributions SPD which can be referred to in such cases.

6.13 In this case, your Officer would suggest that given the lack of on-site parking provision and the potential by reason of the location to achieve as a result of the proposed measures a significant modal shift away from use of the private motor car, those contributions that are focussed on the promotion of sustainable transport, should be required in full to give them the maximum opportunity of working. The improvement of the immediate public realm both to achieve improved residential amenity and reduce crime and disorder risks should be a further priority. That would equate to £31,800 leaving the remaining £22,200 for a reduced Public Open Space contribution.

6.14 That said, market conditions, and thus viability, can change. On this basis it would be quite reasonable and necessary for the Local Planning Authority to require the independent financial assessment of the scheme to be reviewed if the development has not been substantially commenced within say one year of the grant of the permission, and upward only alterations then made to the contributions if the scheme is then evaluated to be able to support higher contributions. This would need to be also secured via the Section 106 agreement.

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 SP2:	Spatial Principles of Economic Development
Policy SP3:	Spatial Principles of Movement and Access
Policy ASP5:	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP2:	Historic Environment
Policy CSP3:	Sustainability and Climate Change
Policy CSP5:	Open Space/Sport/Recreation
Policy CSP6:	Affordable Housing
Policy CSP10:	Planning Obligations

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

Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy T17:	Parking in Town and District Centres
Policy B5:	Control of Development Affecting the Setting of a Listed Building
Policy B9:	Prevention of Harm to Conservation Areas
Policy B10:	The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area
Policy B11:	Demolition in Conservation Areas
Policy B13:	Design and Development in Conservation Areas
Policy B14:	Development in or Adjoining the Boundary of Conservation Areas
Policy C4:	Open Space in new housing areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

National Planning Policy

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

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

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

Supplementary Planning Guidance/Documents

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

[Affordable Housing SPD](#) (2009)

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

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

[Newcastle Town Centre SPD](#) (2009)

[Newcastle Town Centre Conservation Area Appraisal](#) (August 2008)

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

[Newcastle Town Centre Public Realm Strategy](#) (March 2004)

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

Relevant Planning History

04/01319/FUL	Erection of 12 storey building comprising 92 apartments with commercial/retail at ground level	Refused
05/00103/CON	Demolition of existing buildings	Refused
16/00933/FUL	Demolition of the former Savoy Cinema and the erection of an 11-storey student accommodation building comprising 174 units, communal areas, a laundry and bike storage	Withdrawn
17/00174/FUL	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a 13 storey student accommodation building comprising 227 units	Refused and allowed at appeal February 2018
18/00005/FUL	Demolition of the former Savoy Cinema & Metropolis nightclub and erection of an 11 storey student accommodation building comprising 217 units	Withdrawn

Views of Consultees

The **Environmental Health Division** has no objections subject to conditions regarding a construction environmental management plan, noise from plant and mechanical ventilation, ventilation provision to habitable spaces, glazing specification and unexpected contamination.

The **Highway Authority** has no objections subject to conditions regarding secure cycle parking, travel plan, street lighting to the footway at the north-western boundary of the site and Construction Method Statement. A Section 106 Agreement is required securing a Travel Plan monitoring fee (£2,200), a requirement to provide a free bus pass to each student to various educational establishments, and financial contributions to Real Time Passenger Information system (£8,000) and improvements to the cycle route from Newcastle town centre to Keele University (£10,600).

The **Crime Prevention Design Advisor** makes the following comments:

- The Design and Access Statement is devoid of any references to security or student safety other than regarding fire, which is highly unsatisfactory given the scale of the development. Consequently it is not possible to determine to what extent consideration has been given to such issues.
- Queries are raised regarding access and security within the building.
- The stairwell appears to be devoid of any external glazing which will create a more intimidating and less safe environment.
- Clarification is sought regarding the bike storage.
- The rooms on the mezzanine level will be at the same level as the path that links the Midway with High Street and this has implications for privacy and security.
- The staggered bricks could present a challenge for climbers.
- The levels 9 and 10 layout drawing suggests that the rooms will have an opening window which could have safety implications.
- A well-conceived CCTV system would be important.
- Doorsets within the building should be certified to a minimum attack-resistant security standard.

- The Local Planning Authority should ensure that appropriate security measures will be in place and obvious potential vulnerabilities addressed before granting planning permission.

Historic England states that this scheme would have a less harmful impact than previous proposals for the site however they are also aware of the appeal decision (Ref. 17/00174/FUL) that granted consent for a 13-storey student accommodation. They are happy to defer to the Conservation Officer's expertise regarding the details of the proposed scheme.

The **Conservation Advisory Working Party** considers the revised scheme to be an improvement on previous proposals for this site however they have concerns over the cladding on the upper floors which may cause staining of the brickwork below, and suggest that a contrasting dark colour brick would be a better alternative. It was suggested that the projecting bricks may be a health and safety issue as they would be ideal for climbing.

The Council's **Conservation Officer** states that the photomontages and important viewpoints are useful along with the elevation cross sections which show the line of the approved scheme and reduction in height. The height reduction has made a significant difference to the impact the proposal has on the character and appearance of this part of the town centre and it is concluded that there is unlikely to be any harm in this character area. The character area around the Midway will gain an active frontage and also improve the appearance of the area. The brick detailing is supported and it is considered that they will be effective. Deep window reveals will create a higher quality building and perforated brick on the entrance is a good feature to create interests and light. The details of the windows and bricks showing the reveal are very illustrative and should be followed. Samples of the bricks should be submitted.

The **Housing Strategy Officer** states that if this is purpose built student accommodation occupied exclusively by students then affordable housing would not be sought. However, if the scheme is not exclusively for students then the affordable housing requirements as set out in the Affordable Housing Supplementary Planning Document should be applied.

The **Landscape Development Section** states that a Section 106 contribution of £205,535.10 would be required towards public open space which would be used for town centre greenspaces, Queen Elizabeth Park and/or Queens Gardens.

The Council's **Waste Section** states that the revised plans show a bin store with only 6 containers for refuse rather than the 7 shown previously and there is no information about recycling provision at all. No indication is given of how frequently the store would be serviced and it is not accepted that 6 bins if divided between recycling and refuse containment and emptied daily would be sufficient to contain waste being generated onsite. Previous applications have suggested that a private company would hold a contract for the provision of recycling and waste services. The Council would treat this as a commercial development and levy charges accordingly.

No comments have been sought from the **Lead Local Flood Authority** but regarding the previous scheme they raised no objections subject to a condition requiring submission, approval and implementation of a detailed surface water drainage scheme.

Staffordshire County Council as **Minerals and Waste Authority** has no comments on the application.

No comments have been received from the **Victorian Society, Newcastle South LAP**, the **Twentieth Century Society** and **Staffordshire Fire and Rescue Service**. Given that the period for comments has expired it must be assumed that they have no comments to make.

Representations

Four letters of objection have been received including one on behalf of the Civic Society. A summary of the objections made is as follows:

- The height, scale and mass of the building is inappropriate. A 12-storey structure would dominate the town centre in an unacceptable way.
- The proposed design and materials would detract from the existing townscape.

- There is not a need for another landmark building in the town centre.
- The development could lead to an increase in traffic in this busy area.
- It is questioned whether there is a demonstrable need for additional student accommodation in the town.
- It is disappointing that the existing building on the site could not have been modified to be put to some community use.
- The opportunities for public consultation have been totally inadequate.
- Unsuitability of the canyon-like site for residential accommodation.
- The site is unsustainable as housing accommodation in terms of public safety and amenity.
- If permission is granted it is essential that a Section 106 agreement is signed to ensure that demolition does not take place until a contract for the new development has been let.

Twenty-three letters of support have been submitted stating the following:

- The development will tidy up the site which is currently an eyesore
- It will bring people and money into the town
- It will free up housing for families
- The development will place students in the town centre close to facilities and shops
- It will support local businesses
- It will add vibrancy to the town centre

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Planning Supporting Statement
- Statement of Community Involvement
- Design Review Report
- Structural Report
- Flood Risk and Foul Drainage Assessment
- Tree Survey Report
- Visual Impact Assessment
- Noise Assessment Report
- Heritage Statement
- Preliminary Ecological Appraisal
- Transport Statement
- Travel Plan
- Land Contamination Assessment

All of these documents are available for inspection at the Guildhall and as associated documents to the application via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00483/FUL>

Background papers

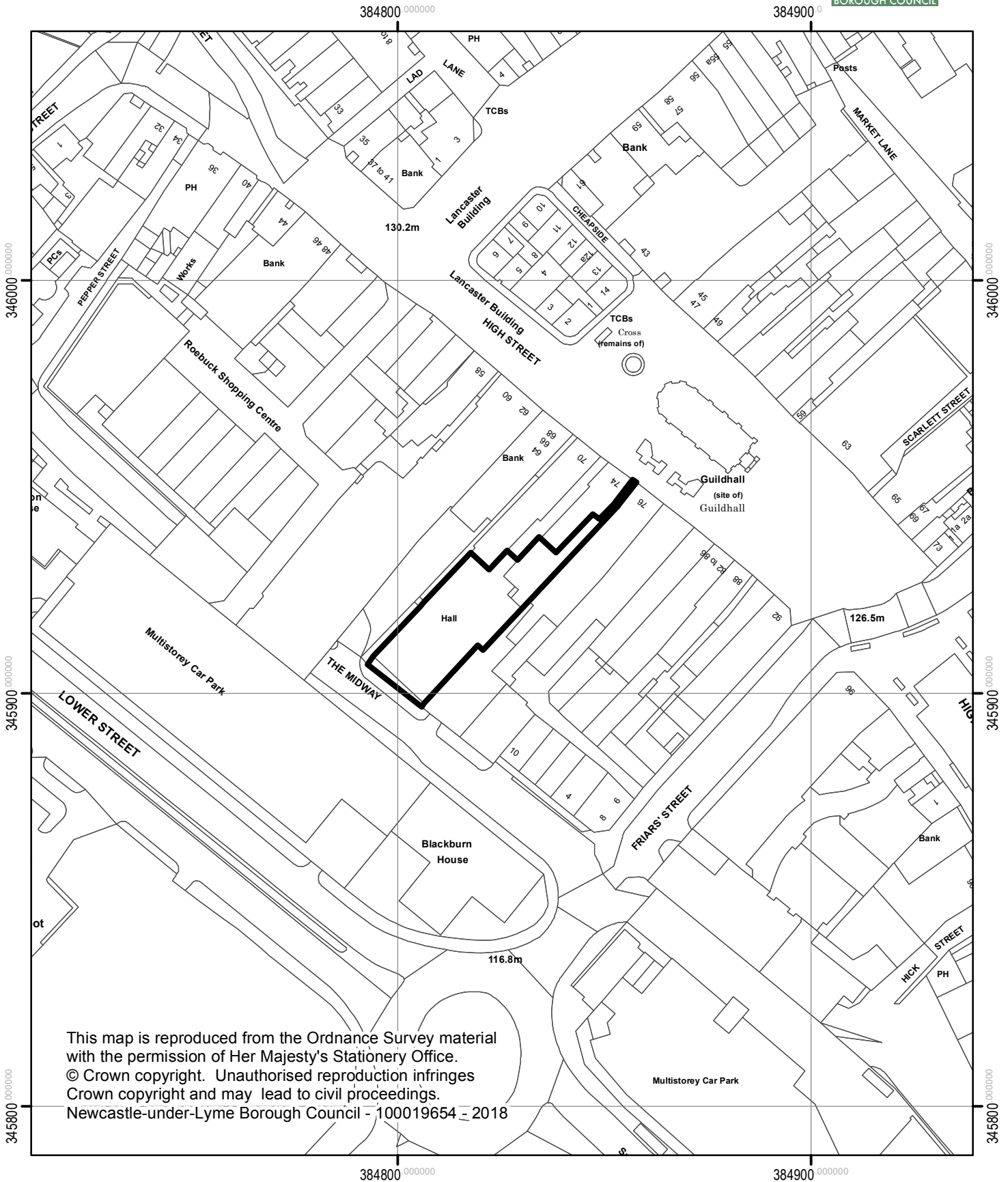
Planning files referred to
 Planning Documents referred to

Date report prepared

13th December 2018

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Former Savoy Cinema / Metropolis Nightclub Newcastle



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Newcastle-under-Lyme Borough Council - 100019654 - 2018

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LAND ADJACENT CARTREF, RYE HILLS, AUDLEY
MR & MRS COTTERILL

18/00842/FUL

The Application is for full planning permission for a detached bungalow.

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

The 8 week determination period expires on the 24th December but the applicant has agreed to an extension of the statutory period to 9th January 2019.

RECOMMENDATION

PERMIT subject to conditions relating to:-

- 1. Time limit**
- 2. Approved plans**
- 3. Materials**
- 4. Boundary treatments**
- 5. Landscaping scheme**
- 6. Tree protection**
- 7. Retention and protection of boundary hedgerow**
- 8. Construction hours**
- 9. Contaminated land**
- 10. Provision and retention of access and parking area**
- 11. Surfacing of access drive**
- 12. Foul and surface water**
- 13. Removal of permitted development rights**

Reason for Recommendation

There is an extant planning permission for a bungalow on the site which was granted on the grounds that it comprised the redevelopment of a previously developed site which would not have a greater impact on the openness of the Green Belt. However given that the former building on the site has since been demolished, it is no longer possible to conclude that a new bungalow on this site would not have a greater impact on the openness of the Green Belt and therefore it is concluded that the proposal represents inappropriate development in the Green Belt and should not be approved except in very special circumstances. However, given that the proposed bungalow would involve a very minimal increase in volume (just 9 cubic metres) over and above the volume of the extant bungalow, there would be no greater impact on the openness of the Green Belt than the approved scheme and such circumstances are considered to constitute the 'very special circumstances' to justify this inappropriate development.

The design of the dwelling would be appropriate to this location and would have no adverse impact on the character or quality of the landscape.

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

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

KEY ISSUES

This application is for full planning permission for the erection of a detached bungalow on this site which lies within the open countryside on land designated as being within the North Staffordshire

Green Belt and an Area of Landscape Restoration, as indicated on the Local Development Framework Proposals Map.

Planning permission was granted in 2014 for a bungalow on the site (Ref. 14/00322/FUL). There is evidence that a material commencement was made on site within the required time period and therefore that consent is extant and capable of implementation.

It is not considered that the proposal raises any issues of impact on highway safety, residential amenity or trees. Although the Open Space Strategy which was adopted by the Council on the 22nd March 2017 requires a financial contribution of £5,579 per dwelling towards public open space improvements and maintenance, given that there is an extant planning permission for a dwelling on this site which was granted prior to the adoption of the Open Space Strategy, it is not considered appropriate to request a financial contribution now.

Therefore, the key issues in the determination of this application are:

- Is the proposal appropriate development within the Green Belt?
- Is the principle of residential development on the site still acceptable?
- Is the design of the bungalow and the impact on the character and appearance of the area acceptable?
- Should it be concluded that the development is inappropriate in Green Belt terms do the required very special circumstances exist?

Is the proposal appropriate development within the Green Belt?

The NPPF indicates in paragraph 145 that local planning authorities should regard new buildings within the Green Belt as inappropriate other than for a number of exceptions.

The site was formerly a coal yard occupied by a Nissan style hut and therefore the previous application for a bungalow on this site (Ref. 14/00322/FUL) was granted on the grounds that it comprised the partial or complete redevelopment of a previously developed site which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development. The building has since been demolished and therefore it is no longer possible to conclude that a new bungalow on this site would not have a greater impact on the openness of the Green Belt. It is therefore concluded that the proposal represents inappropriate development in the Green Belt and should not be approved except in very special circumstances. This will be addressed below.

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

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

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

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

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

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

As stated above, there is an extant outline planning consent for a bungalow on this site. In approving that application it was concluded that this is a sustainable location close to the shops and services of Audley village centre and having public transport opportunities in close proximity. Since the previous permission was granted, a revised NPPF has been published. There is nothing in the revised NPPF on this matter to suggest that there is a basis for the Local Planning Authority to reconsider its position on this issue and therefore, noting the acceptance in 2014 that the development is in a sustainable location (in terms of access to services and facilities), there is no substantive basis for coming to a different view on this point now.

Contrary to its position at the time of granting the previous permission for this site, the Council is now able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 5.45 years as at the 1st April 2018. Given this, it is appropriate to consider the proposal in the context of the policies contained within the approved development plan. As stated above, development for residential purposes on this site is not supported by policies of the Development Plan however in this case there is an extant planning permission for a dwelling on the site and notwithstanding the change in circumstances, it is considered that it would be unreasonable to now refuse planning permission.

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

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

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

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

The proposed bungalow would sit centrally within the site in a similar location to the previously approved bungalow and detached garage. It would be simple in its design and the materials would comprise facing brickwork and Staffordshire blue clay tiles.

There is a mix of dwelling styles in the immediate area and it is considered that the scale and design now submitted would be appropriate to this location and would have no adverse impact on the character or quality of the landscape. There are no significant landscape features within the site that would be removed or adversely affected by the proposal. In conclusion, it is considered that the proposal would comply with saved Policy N21 of the Local Plan and the general design requirements outlined in the NPPF.

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

The NPPF sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It further indicates that very special circumstances (to justify inappropriate development) will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

As discussed above, there is an extant planning permission for the erection of a bungalow and detached garage on the site. That development could be implemented at any time. The volume of the approved bungalow and garage totals 300 cubic metres and the volume of the bungalow now proposed measures 309 cubic metres. Therefore although the proposed bungalow cannot be considered to comprise appropriate development for the reasons set out above, given the minimal increase in volume involved, it is not considered that it would have any greater impact on the openness of the Green Belt than the approved scheme. Such circumstances are considered to constitute the 'very special circumstances' to justify this inappropriate development.

Given that the development is considered acceptable on the basis that its volume is very similar to that of the extant consent and therefore it would not have a materially greater impact on the openness of the Green Belt, it is considered that permitted development rights should be removed for extensions and outbuildings.

APPENDIX

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

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

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 S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees Policy
Policy N17: Landscape Character – General Consideration
Policy N21: Area of Landscape Restoration

Other material considerations include:

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

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

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

14/00322/FUL Two bedroom bungalow and single detached garage Approved

Views of Consultees

The **Highway Authority** has no objections to the proposal subject to conditions regarding provision and retention of access and parking area and surfacing of the access drive in a bound material.

The **Landscape Development Section (LDS)** has no objections subject to conditions regarding tree protection and retention and protection of the boundary hedgerow. A Section 106 contribution of £5,579 is requested towards the improvement and maintenance of off-site open space which would be used for improvements to playground facilities at either Station Road or Queen Street open space.

Audley Rural Parish Council notes the application.

The **Environmental Health Division** has no objections subject to conditions regarding construction and demolition hours and contaminated land.

United Utilities has no objections subject to a condition requiring foul and surface water to be drained on separate systems.

Staffs County Council as **Mineral and Waste Planning Authority** has no comments to make on this application.

Representations

None

Applicant/agent's submission

The application is accompanied by a Design and Access Statement and information relating to contaminated land. These documents are available for inspection at the Guildhall and via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00842/FUL>

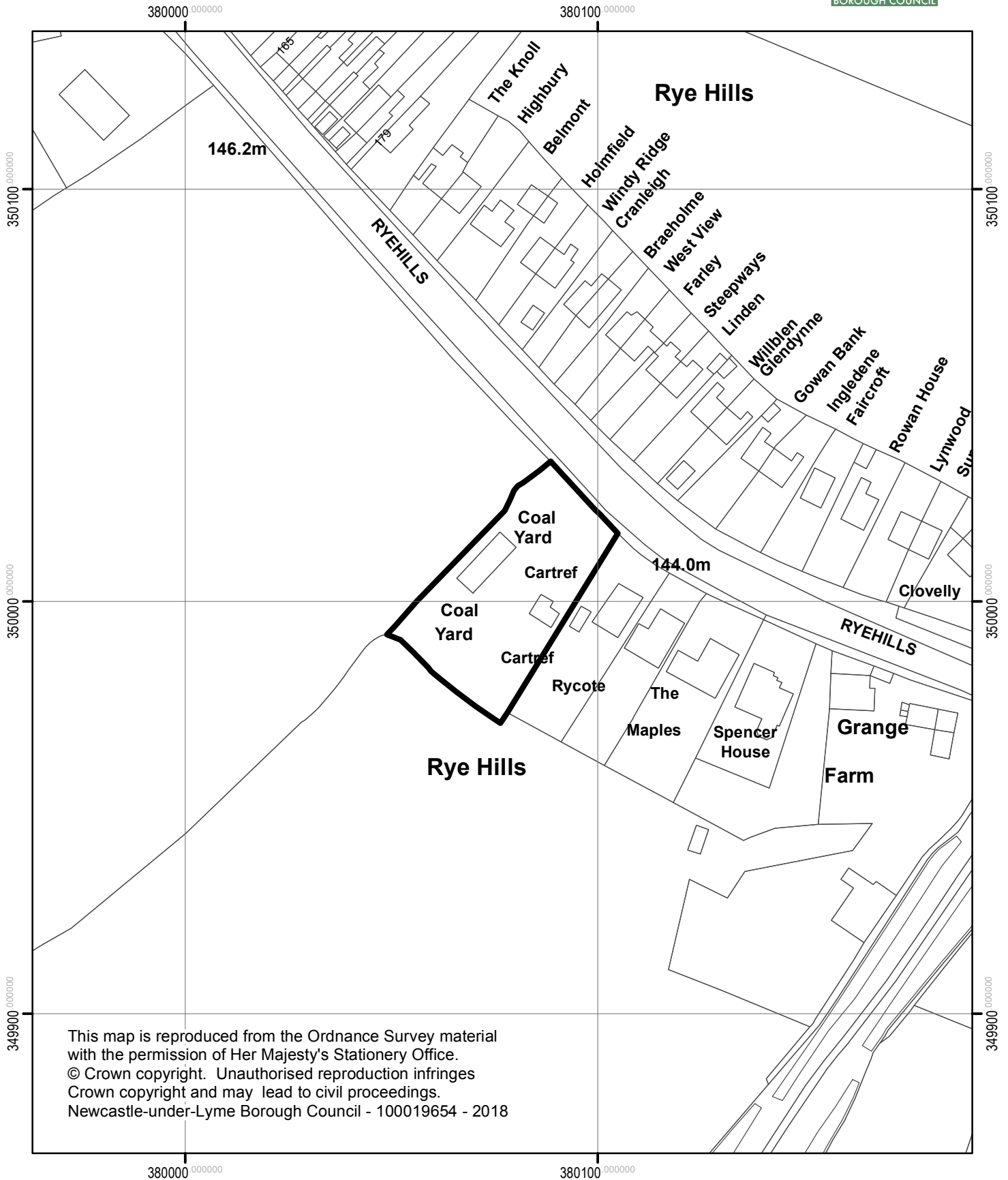
Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

13th December 2018

Land Adjacent Cartref
Rye Hills, ST7 8LP



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MAER HALL, MAER
MR FRADLEY

18/00952/FUL

The application is for full planning permission for the construction of a canopy over the gate that provides pedestrian access to Maer Hall from the courtyard to the south east of the Hall.

Maer Hall is a Grade II listed building within the village of Maer. It lies within the Maer Conservation area, the Maer Hall Historic Park and Garden and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map. The gatehouse and walls to Maer Hall which front the main road through the village are Listed Grade II* and give access to the courtyard. The wall and gates which give access to the Hall are linked to the Grade II* Listed gatehouse and walls.

The statutory 8-week period for the determination expires on the 24th January 2019.

RECOMMENDATION

Permit, subject to conditions relating to:

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

Reason for Recommendation

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

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

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

KEY ISSUES

Full planning permission is sought for a canopy over a pedestrian access at Maer Hall. Listed Building consent was recently granted for the development (Ref. 18/00821/LBC).

Given the minor scale of the development, it is not considered that there would be any impact on the character and appearance of the Conservation Area or the Historic Park and Garden or on the quality of the Landscape Maintenance Area. Therefore, the only issue to address in the determination of the application is whether the proposal would preserve the special character and appearance of the listed structures and the setting of these structures.

The access is from the courtyard of the gatehouse to Maer Hall, south east of the Hall. Maer Hall is a private residence. The Hall is accessed through the gatehouse and its attached walls, which are Grade II* Listed and described in the list description as late 18th century gatehouse built from stone with stone slate roof. The walls are also built from ashlar stone. The connected walls and piers are built from brick and separate the Hall and its grounds from the courtyard. There is a pedestrian metal gate and double timber gates within the gate piers that give access into the Hall and the grounds.

The NPPF makes it clear that Local Authorities should recognise that designated heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance.

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

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

Policy B6 of the Local Plan indicates that the Council will resist alterations and additions to a listed building that would adversely affect its character or its architectural or historic features. Policy CSP2 of the Core Spatial Strategy states that the Council will seek to preserve and enhance the character and appearance of the historic heritage of the Borough.

The applicant indicates in their Heritage Statement that they wish to construct a timber framed canopy on brackets covered in slates to match the recently reconstructed conservatory to the Hall. They state that the Hall will not be adversely affected by the new canopy.

Historic England and the Council’s Conservation Officer have raised no objections to the application on the grounds that it is a relatively minor addition and one which will not be harmful to the character or significance of the Grade II* listed gatehouse and walls, or to its setting, and also to the setting of Maer Hall. The Conservation Advisory Working Party (CAWP) felt that the proposed canopy would be harmful to the setting of the Listed Hall and Gatehouse on the grounds that it would have an adverse impact on the simplicity of the brick piers and would disturb the relationship between the buildings. Your Officer’s view is that the Listed Hall is already interrupted by the intervening piers and gates and therefore it is not considered that the minor addition of the canopy with the use of appropriate materials would harm the setting or significance of the Listed Buildings.

Subject to the works being carried out in accordance with the details submitted it is accepted that the erection of the small canopy would not result in a significant harm to the heritage assets and their settings and would comply with Policy B6 of the Local Plan and the guidance and requirements of the NPPF.

APPENDIX

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

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

Policy CSP1: Design Quality
Policy CSP2: Historic Environment

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

Policy N19: Landscape Maintenance Areas
Policy B5: Control of Development Affecting the Setting of a Listed Building
Policy B6: Extension or Alteration of Listed Buildings
Policy B9: Prevention of Harm to Conservation Areas
Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area

Other material considerations include:

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

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

Relevant Planning History

There is an extensive planning history relating to Maer Hall and its associated outbuildings. The most recent applications are as follows:

16/00847/LBC & 16/00846/FUL - replacement of the existing conservatory and change of glazed roof to slate roof	Approved
18/00821/LBC - Retention of canopy with tiled roof over pedestrian gate	Approved

Views of Consultees

Historic England are pleased that the canopy is proposed only over the pedestrian gate rather than extending over the whole vehicular access and defer to the Council's specialist conservation adviser with regard to the details of the proposed works.

The **Urban Design and Conservation Officer** remarks that the canopy is partially constructed which makes it unauthorised although the applicant claims that this was undertaken to aid pre application discussions following the removal of the larger unauthorised canopy which was erected over the large double gates. The proposed canopy over the pedestrian gate is less obtrusive being below the top of the gate piers and is constructed from appropriate materials. The proposal is a minor one and will not be harmful to the character or significance of the building.

In relation to application 18/00821/LBC, the **Conservation Advisory Working Party (CAWP)** felt that the proposed canopy over the pedestrian gate would be harmful to the setting of the Listed Hall and Gatehouse. They stated that the brick piers are simple and appropriate and as such, the canopy has a diminutive effect on the character of this simplicity and it interferes and disturbs the relationship between the buildings.

Maer and Aston Parish Council and **Staffordshire Gardens Parks Trust** have been consulted but have not yet responded. The period for comments ends on 25th December and any comments received will be reported to Members in a supplementary report.

Representations

None received to date.

Applicant/agent's submission

The application has been supported by a Heritage Design and Access Statement. This document is available for inspection on the Council's website by searching under the application reference number 18/00952/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00952/FUL>

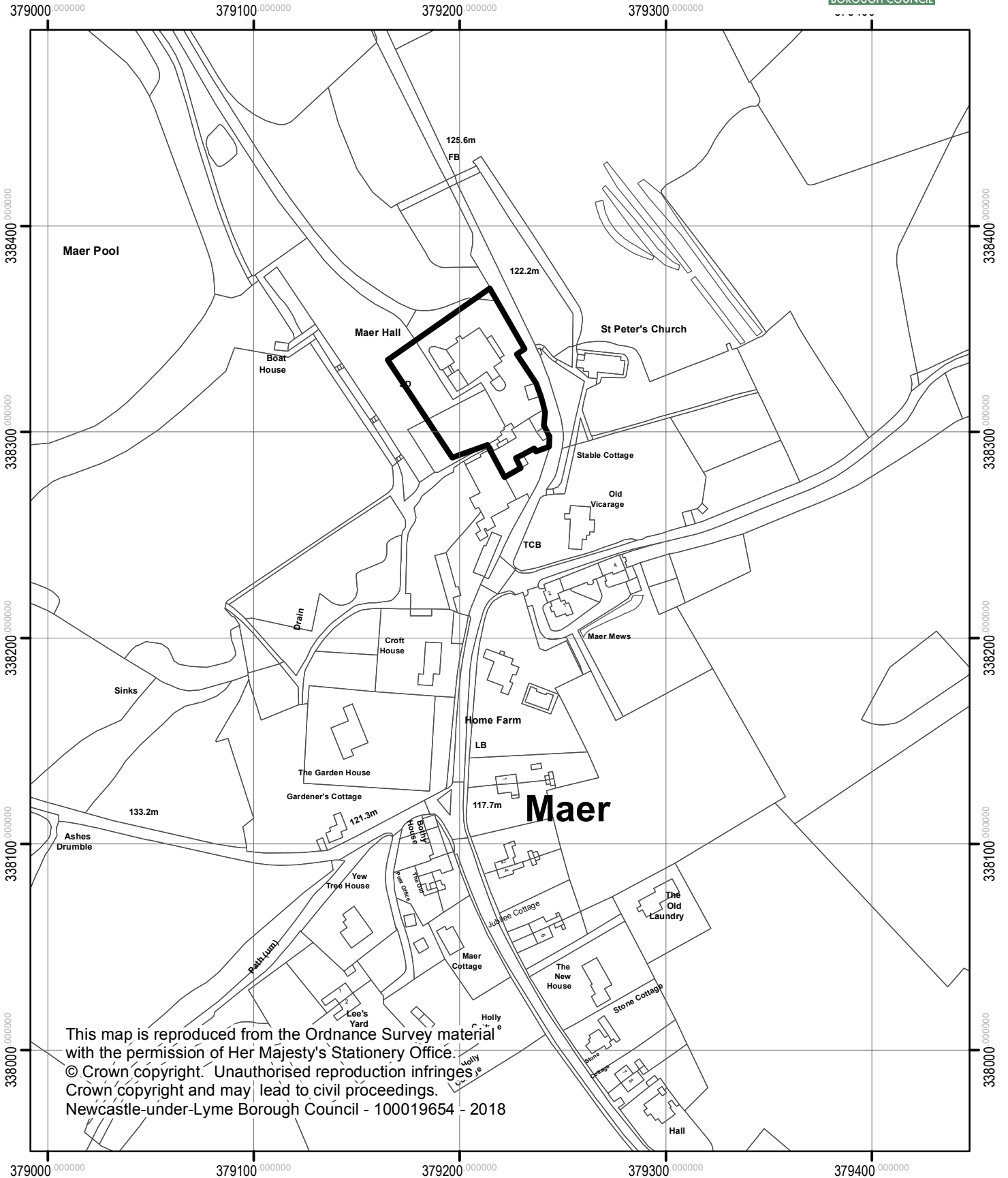
Background Papers

Planning File
Development Plan

Date report prepared

19th December 2018

Maer Hall
Maer



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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

Recommendations

- a) That the report be noted
- b) That officers, in the light of the July 2018 Guidance on the monitoring and reporting of planning obligations and upon receipt of the expected Regulations and national open data templates, bring forward a report in a new format that is compatible with such initiatives.

Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 17th July 2018 and covered the period between 1st October 2017 to 31st March 2018. This report now covers the period between 1st April 2018 to 30th September 2018 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.

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 the MCHLG has published the revised National Planning Policy Framework and guidance on Viability which now forms part of the Government's online Planning Practice Guidance. Members may wish to note that an entire chapter is devoted to the topic of Viability in that Guidance, and within that there is a section on Accountability. The PPG indicates that Local authorities should both monitor and report on developer contributions – on the basis that it is important that developers are accountable to communities and that communities are easily able to see where contributions towards infrastructure and affordable housing have been secured and spent.

The half yearly reports that have been submitted to the Planning Committee for the last 5 years or so could be considered to be an important step towards this objective, although they have only been published as Committee Reports so they are not as accessible as the Government clearly envisages they should be.

The Guidance proposes that using a new Executive Summary that it is envisaged will be drawn up for each agreement, local authorities should record the details of each planning obligation in what is called an open data format (which is being developed by the MCHLG), and that authorities should be preparing what is called an Infrastructure Funding Statement, again on a standard open data format, that sets out infrastructure requirements, anticipated

funding from developer contributions and the choices local authorities have made about how these contributions will be used. The Guidance envisages such a Funding Statement being reviewed annually to report on the amount of funding received via developer contributions and how this funding has been used, and that it should be published annually online and submitted to the MCHLG as well as forming part of the Council's Annual Monitoring Report. In the publication in October 2018 as to the Government's view on the way forward following the Developer Contributions Consultation the Government has indicated that it intends to require such reporting on a formal statutory basis, but the related Regulations are currently awaited.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April 2018 to 30th September 2018)

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. The last half yearly period has seen a further rise in the number of planning obligations entered (21), compared with 19 in the period that ended 31st March 2018, and 10 in the period that ended 30th September 2017.

Application reference and date of agreement or undertaking	Location of development	Development	Purpose of the obligation(s) entered into by developers/owners	The level of contribution(s) payable when development trigger achieved
17/00968/FUL 4 th April 2018	Site of Former Wrinehill Garage, Main Road, Betley, Crewe, CW3 9BZ	Erection of 9 no. Dwellings, associated car parking and landscaping (amendment to approval 06/00984/FUL)	Public Open Space contribution towards surfacing improvements at Betley Village Hall	£11,158 (Index Linked)
17/00805/OUT 5 th April 2018	Land Adjacent to 49 Vernon Avenue, Audley, Stoke-on-Trent, ST7 8EG	Outline application with some matters reserved for erection of a two storey dwelling	Public Open Space contribution towards improvement and maintenance of the open space and upgrade of play equipment at Western playing fields, Queen Street, Audley	£5,579 (Index Linked)
17/00791/FUL 23 rd April 2018	Land Adjacent to Slacken Lane, Kidsgrove	Proposed 2 two bed detached bungalow	Public Open Space contribution towards improvement and maintenance of the open space and upgrade of play equipment at Townsend, Talke	£5,579 (Index Linked)
17/00281/FUL 4 th May 2018	Land Around Wilmot Drive Estate, Lower Milehouse Lane, Newcastle-under-Lyme, ST5 9AX	Development of 276 dwellings, public open space and associated infrastructure works	Off Site Affordable Housing contribution (paid in three equal payments which is to be ring-fenced for five years for Aspire Housing Ltd)	£899,570 (index linked)

			Contribution towards the provision/maintenance of Multi-Use Games Area (MUGA)	£60,000 (Index Linked)
			Off-Site Highways Works contribution	£30,000
			Travel Plan Monitoring	£6,430 (Index Linked)
			Management agreement for the long-term maintenance of on-site public open space	Not Applicable
			Financial Viability Re-Appraisal Mechanism	Not Applicable
17/00515/DEEM4 10 th May 2018	Land to the North of Bradwell Hospital, Talke Road, Bradwell	Development of up to 85 dwellings and associated access arrangements	25% Affordable Housing	Not Applicable
			Public Open Space contribution towards improvement and enhancement of the play facilities at Bradwell Dingle	£5,579 per dwelling (Index Linked)
			Contribution towards Primary Education Places at the Sun Primary Academy (formerly Bradwell Primary) or Bursley Academy	£198,558 (Index Linked)
			Residential Travel Plan Monitoring Fee	£6,430 (Index Linked)
17/00942/OUT 11 th May 2018	Garage Site, Pentland Grove, Knutton, Newcastle-under-Lyme	Demolition of existing domestic garages and construction of three 2/3 bedroom houses	Public Open Space contribution towards improvement and maintenance of Cotswold Avenue play area	£16,737 (Index Linked)
17/00984/FUL 4 th June 2018	Lymewood, The Green, East of Clayton Road	Conversion of detached garage and store to two-bedroom detached dwelling	Public Open Space contribution towards improvement and maintenance of Rydal Way play area	£5,579 (index linked)
18/00042/FUL	Sandon New Road, Madeley, Crewe, CW3 9EX	Erection of 2 two-storey semi-detached dwellings	Public Open Space contribution towards improvement and maintenance of the Daltry	£11,158 (Index Linked)

14 th June 2018			Way play area	
18/00099/OUT 19 th June 2018	Land to West` side of Brittain Avenue, Chesterton	Construction of a pair of 2 bed 4 person semi-detached houses and associated site works	Public Open Space contribution towards upgrade of local play equipment at Chesterton Memorial Park	£11,158 (index linked)
18/00188/FUL 21 st June 2018	Land Fronting Mow Cop Road, Mow Cop, Stoke-on-Trent, ST7 4NF	Detached dwelling	Public Open Space contribution towards improvement and maintenance of the Dales Green Road play area	£5,579 (Index Linked)
18/00152/FUL 3 rd July 2018	Land Adjacent to 86 Buckmaster Avenue, Newcastle-under-Lyme	Construction of 4 dwellings	Public Open Space contribution towards improvement and maintenance of the Lyme Valley Parkway playground	£5,579 (Index Linked)
18/00022/OUT 6 th July 2018	The Gables, Gravelly Hill, Ashley, Market Drayton, TF9 4JU	Outline planning application for the construction of a detached bungalow with all matters reserved except for access	Public Open Space contribution towards improvement and maintenance of the Bell Orchard play area	£5,579 (Index Linked)
18/00146/FUL 9 th July 2018	45 Stonebank Road, Kidsgrove, Stoke-on-Trent, ST7 4HQ	Construction of two storey dwelling (resubmission of 17/00531/FUL)	Public Open Space contribution towards improvement and maintenance of the Skate Park at Birchenwood Country Park, Kidsgrove	£5,579 (Index Linked)
18/00126/FUL 10 th July 2018	Land Adjacent to Falmouth Court, Stafford Avenue, ST5 4BJ	Residential development consisting of 4 bungalows, with detached garages and associated access and landscaping.	Public Open Space contribution towards improvement and maintenance of the Lilleshall Road play area	£11,158 (Index Linked)
17/00717/FUL 27 th July 2018	Land Adjacent to 261 Dimsdale Parade West, Newcastle-under-Lyme ST5 8HS	Proposed dwelling at Plot A - Change of design of previous approval 13/00868/REM	Public Open Space contribution towards improvement and maintenance of Bradwell Lodge or Bradwell Dingle	£5,579 (Index Linked)
17/01021/FUL	Cornwall House, Sandy	Change of use of Cornwall	Public Open Space contribution towards	£5,579 (Index

7 th August 2018	Lane, Newcastle-under-Lyme, ST5 0LZ	House Clinic back into a dwelling.	improvement and maintenance of the play area at Lockwood Street	Linked)
17/00514/OUT 10 th August 2018	Land South of Honeywall Lane, Newcastle-under-Lyme	Development of up to 35 dwellings including associated infrastructure	25% Affordable Housing	Not Applicable
			Public Open Space contribution towards improvement and maintenance of playground facilities at Heath Row, Madeley Heath	£5,579 per dwelling (Index Linked)
			Contribution towards Primary Education Places at Sir John Offley CE(VC) Primary School in Madeley	£77,217
			Contribution towards Secondary Education Places at Madeley High School	£83,110
18/00250/FUL 17 th August 2018	12 Stafford Avenue, Newcastle-under-Lyme ST5 3BW	Demolition of existing bungalow and erection of two bungalows	Public Open Space contribution towards improvement and maintenance of the Buckmaster Avenue play area	£5,579 (Index Linked)
17/00067/DEEM4 23 rd August 2018	Land South of Market Drayton Road, Market Drayton Road, Loggerheads, Newcastle-under-Lyme, TF9 4BT	Outline Planning Application for residential development for up to 65 dwellings with associated open space and landscaping	25% Affordable Housing	Not Applicable
			Contribution towards Secondary Education Places at Madeley High School	£132,976 (Index Linked)
			A management agreement for the long-term maintenance of the open space on the site	Not Applicable
			Unless there is onsite provision of POS then a Public Open Space contribution towards improvement and maintenance of Burntwood Play Area or similar within an appropriate walking distance.	£5,579 per dwelling (Index Linked)
18/00294/FUL 23 rd August 2018	Land South of Appleton Cottage, Coyneysgreave Lane, Whitmore, Newcastle-under-Lyme	Proposed detached dwelling on land to the south of Appleton Cottage with access off Appleton Drive	Public Open Space contribution towards improvement and maintenance of the playground facilities at Whitmore Village Hall	£5,579 (Index Linked)

18/00156/OUT 31 st August 2018	Land Adjoining Spey Drive, Kidsgrove, Stoke-on-Trent ST7 4AF	Proposed bungalow	Public Open Space contribution towards improvement and maintenance of the playground facilities at Clough Hall Park	£5,579 (Index Linked)
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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 April 2018 to 30th September 2018)

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.

Application Number (if applicable) & Reference Number of original related permission and date of modified /discharged agreement	Location of Development	Application	Decision
Nil	-	-	-

Table 3 - Development where financial contributions have been made (1st April 2018 to 30th September 2018)

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.

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
15/00724/FUL	10 Sidmouth Avenue, Newcastle Under Lyme, ST5 0QN	Proposed 4 no. detached dwellings, change of use of existing building to single dwelling, demolition of part of former Childrens Home and 1 no. detached garage and change of use to form a single residential dwelling at The Birches, 10 Sidmouth Avenue	Public Open Space Contribution	£14,715 NBC
16/00958/FUL	(Marks and Spencer) Wolstanton Retail Park, Newcastle	Variation of condition 3 (To increase the amount of floorspace within the M&S store that can be used for convenience goods sales to 1,496sqm) of planning permission 11/00611/FUL - Demolition of existing retail warehouse units, distribution unit and redundant methane pumping station. Construction of new retail store with ancillary refreshment facilities, new and altered car parking, servicing and sewerage facilities	Business Improvement Contribution – sixth annual payment	£11,274 NBC

17/00968/FUL	Site of Former Wrinehill Garage, Main Road, Betley, Crewe, CW3 9BZ	Erection of 9 no. Dwellings, associated car parking and landscaping	Public Open Space Contribution	£11,158 NBC
13/00426/OUT	Land at the end of Gateway Avenue, Baldwins Gate, Staffordshire	Erection of up to 113 dwellings and associated works (subsequently 109 given detailed approval)	Travel Plan Monitoring	£2,327 SCC
			First 50% of the Primary Education Contribution	£131,255 SCC
			First 50% of the Secondary Education Contribution	£107,880 SCC
			Second 50% of the Primary Education Contribution	£132,856 SCC
			Second 50% of the Secondary Education Contribution	£109,197 SCC

Table 4 - Development where financial contribution have been spent. (1st April 2018 to 30th September 2018)

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
09/00136/OUT	Former Silverdale Colliery Scot Hay Road Silverdale	Variation of Condition B9 of 06/00337/OUT, which gave outline planning permission for the erection of buildings for residential and community use - Community Facilities	£88,106.72	Design fees for the buildings to provide the community facilities approved under 09/00698/REM.
07/00127/OUT	Lower Milehouse Lane Phase 2	Residential Development	£19,988.51 towards Public Open Space improvements/ enhancements	Installation of footpath lighting

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".

Permission reference & Date of Obligation & enforcement case reference	Location of development	Development	Purpose of the obligation and description of the apparent breach	Action taken and to be taken to resolve the apparent breach.
12/00701/FUL 13 th May 2013 16/00219/207C2	Former Randles Ltd, 35 Higherland, Newcastle Under Lyme	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.
15/00329/FUL 27 th May 2015	The Skylark High Street Talke	Demolition of existing public house and erection of ten dwellings	A financial contribution of £15,000 (index linked) towards Public Open Space enhancements and maintenance at Chester Road playground should have been made within 9 months of the commencement of the development. The applicant previously confirmed that the development commenced in September 2015. Therefore the payment was due by the end of June 2016. The contribution was not paid by that date.	<p>The development has now been completed and the ten dwellings have been sold without the payment being made. The developer has gone into administration.</p> <p>The Unilateral Undertaking provides that liability for the payment transfers to any person who subsequently becomes the owner of the land which is the subject of the undertaking.</p> <p>Accordingly the individual houseowners were pursued for payment of their "share" of the outstanding amount and it can now be confirmed that all 10 accounts have now been settled.</p> <p><i>This case is now considered to be closed.</i></p>
16/00609/FUL 24 th November 2016	Land Adjacent The Sheet Anchor, Newcastle Road, Whitmore	The construction of 7 new houses with access road and associated landscaping	A financial contribution of £20,601 towards public open space and £19,339 towards off site affordable housing was secured. Half of the off-site affordable housing contribution and the full amount of the POS	<p>The Council has been chasing payment of £30,781.32 (with index linking applied).</p> <p>The developer has now paid</p>

			<p>contribution was required to be paid on or prior to the commencement of the development. The other half of the affordable housing contribution is not due until completion of the last dwelling of the approved scheme and that point has not yet been reached.</p> <p>That did not happen.</p>	<p>the outstanding amount owed.</p> <p><i>This case is now considered to be closed</i></p>
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APPEAL BY MARCUS MACHINE & TOOLS LIMITED AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE ERECTION OF 10 DWELLINGS AT LAND OFF WOODROW WAY, ASHLEY

<u>Application Number</u>	17/00605/FUL
<u>LPA's Decision</u>	Refused by Planning Committee on 8th December 2017
<u>Appeal Decision</u>	Appeal dismissed
<u>Date of Appeal Decision</u>	5th December 2018

The Appeal Decision

The Inspector identified the main issues to be;

- Whether the development would be in an accessible location; and
- Whether the development would make suitable provision for affordable housing and educational provision in the area.

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

Whether the proposal would be in an accessible location

- For the purposes of the development plan, the appeal site is adjacent to but outside of the village envelope of Ashley and therefore within the open countryside and a Landscape Maintenance Area. Ashley is not identified as a Key Rural Service Centre. The site is also greenfield. Information submitted with the appeal indicates that any affordable housing provision would be in the form of a financial contribution for off-site provision and so this element of the scheme would not comply with Policy H1's requirement that any affordable housing should be sited within an existing group of dwellings.
- For these reasons the appeal proposal would not accord with the spatial strategy of the Core Spatial Strategy (CSS) for the location of new housing development and would conflict with Policies SP1 and ASP6 of the CSS and Policy H1 of the Local Plan (LP) in this regard.
- The Council Officer's report also went on to assess the proposal against Paragraph 55 of the previous Framework. The relevant paragraph from the revised Framework is now 78 which states that to promote sustainable development in rural areas, 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. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- Ashley village does have some services including a church, a restaurant, a doctor's surgery, a pub, a village hall and a hairdressers. However these services are very limited in scope and would be unlikely to meet the basic day to day needs of future occupants of the proposed development such as food shopping, employment or access to schools.
- The village of Loggerheads does have some services and facilities but it is 3km away and the lanes linking the site and Loggerheads are narrow rural lanes that are unlit and do not have pavements. As such, it is unlikely that future occupants would choose to either walk or cycle to this village on a regular basis, particularly during winter days or inclement weather when visibility would be limited.
- There is a bus service with a bus stop approximately 500m from the appeal site, this is mostly hourly during the day and finishes in the early evening. There is also no service on Sundays. Whilst this would provide residents with some choice, the limited services is likely to mean that future occupants of the proposal would be likely to choose to access services and facilities via the private motor car. Whilst Loggerheads may have a greater range of bus services available it is considered unlikely that

future occupants would choose to walk or cycle to that village to access the bus there for the reasons set out above. In all likelihood future occupants would be likely to choose to drive in their car and would be likely to choose to continue to their final destination in their car rather than opt to park in Loggerheads to take a bus.

- For these reasons it is likely that future occupants would be predominantly reliant on the car to access a range of services and facilities necessary to meet their day to day needs. Although future occupants may choose to utilise the limited services available in Ashley this can in no way be guaranteed and the extent to which this may directly maintain or enhance the vitality of services in the area is unclear in any event.
- Notwithstanding the proximity of other houses within the village to the appeal site, it is considered that it is not within a location where a range of goods and services would be accessible via sustainable transport modes. This is a factor that does not weigh in favour of the appeal proposal.
- The conclusions on this issue reflect the findings of several other Inspectors who have considered this issue specifically in relation to the village of Ashley. Whilst one appeal for a single dwelling in Ashley was allowed, that site was within the village envelope and the Inspector found that it would represent infill development and would accord with Policy H1 in this regard. Neither of those circumstances applies to the appeal proposal.
- Along with existing dwellings along the western boundary, there is a private rural lane bordering the northern edge of the site. Other than that the appeal site is surrounded by open fields bounded by hedgerows and hedgerow trees. The built extent of the village is clearly situated to the east of the site. The proposal would represent a definite visual encroachment into the open countryside beyond the defined built extent of the village. The proposal would not represent a logical extension to the village as dwellings in this location would not relate to the visual context of the area which is very much defined by its open, rural character. This factor is also something that does not weigh in favour of the proposal.
- However, whilst the Council has referred to the issue of precedent and several sites having come forward in a 'call for sites' exercise that are adjacent to but outside of the village envelope for Ashley, there is no firm evidence such as a formal planning application that indicates that other proposals may seek to rely on this proposal in the event that the appeal succeeds.
- The Council has also referred to the Framework's reference to avoiding new isolated homes in the countryside but as the houses within the village along the site's eastern boundary are visible from the appeal site, it cannot be described as isolated in terms of the ordinary meaning of that term for the purposes of the Framework.
- It is concluded that the proposal would not be in an accessible location and the proposal therefore conflicts with Policies SP1 and ASP6 of the CSS and Policy H1 of the LP and paragraph 78 of the Framework.

Affordable housing and educational provision

- Two of the Council's reasons for refusal included the lack of a signed S106 agreement regarding a financial contribution towards affordable housing and educational provision in the area. During the course of the appeal a signed copy of a S106 agreement was submitted by the parties which also referenced a sum for the maintenance of onsite Public Open Space. Whilst the appellant's concerns regarding the content of the document are noted, the appeal scheme would be capable of overcoming these two specific reasons for refusal. However, given the conclusion on the first main issue, this does not outweigh the harm identified above.

Other matters

- At the time the original application was determined by the Council, it acknowledged that they were unable to demonstrate an up to date five year Housing Land Supply (HLS) of deliverable sites in line with the requirements of the Framework. During the course of the appeal, this position changed with the Council now asserting that it is able to demonstrate a five year HLS. This is a matter of dispute between the parties.

- However, if it is concluded that the Council is unable to demonstrate a five year HLS and that policies SP1 and ASP6 of the CSS and Policy H1 of the LP should not be considered up to date, this matter would not outweigh the conclusion on the first main issue. This is because the contribution that 10 dwellings would make to any under supply situation would be limited and the principles of locating new development in locations that are accessible via a range of sustainable travel modes along with locating housing in rural areas where it will maintain or enhance the vitality of rural communities are consistent with paragraphs 102, 122 and 178 of the Framework.
- The appellant has identified several economic, social and environmental factors relevant to the appeal scheme and these have been taken into account. These are limited benefits that weigh in favour of the appeal proposal. There are also some neutral considerations that do not weigh in favour of the proposal. However, these limited benefits even taken together do not outweigh the harm identified in relation to the first main issue.

Conclusion

- For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

Recommendation

That the appeal decision be noted.

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APPEAL BY ELIZABETH AND ADRIAN BICKERTON AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR A NEW DOMESTIC GARAGE AT ROSEBANK, NEW ROAD, WRINEHILL

<u>Application Number</u>	18/00490/FUL
<u>LPA's Decision</u>	Refused under delegated authority 17th August 2018
<u>Appeal Decision</u>	Appeal dismissed
<u>Date of Appeal Decision</u>	13th December 2018

The Appeal Decision

The Inspector identified the main issues to be;

- Whether the proposal would be inappropriate development in the Green Belt
- The effect of the proposal on the openness of the Green Belt
- The effect of the proposal on the character and appearance of the local area
- If the proposal is inappropriate development, whether the harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances to justify the development.

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

Whether the proposal is inappropriate development:

- The appellants offered to accept a condition requiring the demolition and removal of the existing garage. However, the new addition would be considerably larger than its existing counterpart in footprint and floor area. This increase would be materially larger than the building to be replaced and no exceptions listed in Paragraph 145 of the NPPF or in Policy S3 of the Local Plan would apply.
- The Inspector concluded that the proposal would be inappropriate development within the Green Belt.

Openness of the Green Belt:

- The reduction in the openness of the Green Belt would be significant in this case given the considerable scale, height and bulk of the new garage notwithstanding its position partly cut into the sloping ground.
- The Inspector concluded that the scheme would erode the openness of the Green Belt and so conflicts with the provisions of the Framework.

Character and Appearance:

- The Inspector noted that the proposed building would be appropriate in design and would be sited to take advantage of the sloping ground and reasonable level circulation space available.
- However, given the sizeable gap between the new addition and the existing dwelling the proposal would clearly be a freestanding building that would be out of keeping with the layout and character of the existing properties along the same side of New Road.
- Whilst planting would partly screen the proposal and visually soften its appearance in the street scene, the new garage would still be obtrusive given its considerable size and height and the lack of any other significant buildings within the front gardens of nearby properties
- It would be an uncharacteristic and visually intrusive addition to the local area.

- The Inspector concluded that the proposal would disrupt the established pattern of existing development and detract from the character and appearance of the local area and so conflicts with Policy CSP1 of the Core Spatial Strategy.

Other considerations:

- The Inspector noted that a potential fallback option for the erection of a similar, if not larger building in the rear garden of Rosebank is genuine and so is a consideration to be weighed in the planning balance
- However a PD compliant building in this location would differ in its shape and form to the proposal and would not be readily visible from the road. As such its visual impact would differ, perhaps significantly, to the appeal scheme. The Inspector therefore attached only moderate weight to this consideration.

Conclusion:

- The harm caused by the inappropriateness of the proposal, its effect on openness and on the character and appearance of the local area, and the conflict with the Framework and the development plan policies, carry substantial weight. The other considerations carry no more than moderate weight.
- On balance, there are no considerations sufficient to clearly outweigh the harm to the Green Belt and so there are no very special circumstances to justify the proposal.

Recommendation

That the appeal decision be noted.

CONFIRMATION OF ARTICLE 4 DIRECTION FOR KEELE CONSERVATION AREA

Report to Planning Committee 3 January 2019

Purpose of the report

To provide the Committee with the opportunity to consider any comments received on the Article 4 Direction for the Keele Conservation Area and to decide whether to confirm the Direction.

Recommendation

That the Committee confirms the non-immediate Article 4 Direction for Keele Conservation Area as coming into force on 10 January 2019, as set out in the Direction.

Reasons

The consultation period is over and the Council must now decide if the Direction should be confirmed or not.

1.0 Background

- 1.1 The Planning Committee, on 6th November 2018 resolved that a non-immediate Article 4 Direction be issued to remove certain permitted development rights with respect to specified properties within Keele Conservation Area including rights associated with works of improvement, extension and alteration of a dwelling, works to boundary walls and the demolition of such walls. This was made under Article 4(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 1.2 A non-immediate Direction has been progressed which will come into effect on 10th January 2019 if now confirmed. The Council in deciding whether or not to confirm the Direction is required to take into account any representations received during the consultation period.

2.0 Consultation

- 2.1 Representations were invited between 20th November and 11 December. In accordance with legislation, the relevant notifications were undertaken. This took the form of a formal notice (as required) in local Sentinel newspaper, two site notices posted within the village, information included on the Council's website about the Direction including a leaflet, and a letter and leaflet was posted to all individual properties to be affected by the Direction explaining the effect of the Direction. This information was also sent to the Parish Council. The Council's Conservation Advisory Working Party supports the making of a Direction for Keele Conservation Area.
- 2.2 During the consultation one representation has been received orally to point out that the information on the leaflet and the Direction was incorrectly addressed to one of the properties. The property in question has historically been converted into two dwellings, one to the front and one to the rear. Endeavours were taken to get the right address from other departments in the Council and both properties front and rear have received

all of the information by hand delivery including the map which clearly shows which properties are affected by the Article 4 Direction.

3.0 Response to representations

- 3.1 The Notice given of the Direction required any representations to be made in writing. There have been no written representations received regarding the Article 4 Direction for Keele Conservation Area only the verbal comment that one property was incorrectly addressed on the Direction. Despite that party orally stating their objection to the Article 4 Direction, no written representations have been received from them either objecting or supporting the Direction.
- 3.2 Legal advice has been taken about the comment that has been received regarding the use of a wrong address and given the circumstances and the fact that the information has been hand delivered and the map provided clearly showed the affected properties, and is not ambiguous, the error is considered to be of typographical nature rather than one which is fatal to the Direction, and one that can be amended during the confirmation of the Direction.

4.0 Conclusions

- 4.1 The presence of an Article 4 Direction over the last 10 years in other Conservation Areas such as Basford, Betley and the Brampton has not caused problems for either the Council or homeowners and a solution is generally found through the application process. In other Conservation Areas, residents value the historic features their properties have managed to retain and they are often seen as a positive attribute when people are selling their property.
- 4.2 An Article 4 Direction only means that a particular development cannot be carried out under permitted development rights on an elevation fronting the public highway and therefore needs a planning application. This gives a Local Planning Authority the opportunity to consider the proposal in more detail.
- 4.3 It is considered that the Direction, as set out in the previous report, is justified and will hopefully help to retain the special architectural details which contribute to the character of the area. Accordingly it is recommended that the Committee now confirm the Keele Article 4 Direction.

Background documents – Conservation Area Appraisal and Management Plan for Keele, proposed Article 4 Direction for Keele

Report prepared 18th Dec 2018

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 6th November 2018.

RECOMMENDATION

That the information be received.

The site has a long history of unauthorised activity that has had an adverse impact on the residential amenity of nearby residential properties.

The application that came before Planning Committee on 6th November sought full planning permission for the retention and completion of a partially constructed track. The works that had already been undertaken were subject to an Enforcement Notice and Stop Notice, served on the landowners in May 2018. An appeal against the Enforcement Notice was lodged but subsequent to the issuing of the planning permission for the retention and completion of the partially constructed track on the 9th November 2018, in accordance with the decision of Planning Committee on 6th November, the Stop Notice and Enforcement Notice were withdrawn and the landowner subsequently withdrew their planning appeal against the Enforcement Notice.

Planning permission 18/00299/FUL was granted subject to thirteen conditions. Two of the conditions required information to be submitted to the LPA prior to works recommencing on the site.

The pre-commencement conditions are as follows;

“11. The development hereby permitted shall not be recommenced until details of measures to prevent the deposition of deleterious material on the public highway during the construction phase have been submitted to and approved in writing by the Local Planning Authority which shall thereafter be implemented in accordance with the approved details.

Reason for the condition and the need for it to be pre-commencement: Mud and debris on the roads has the potential to impact on highways safety as soon as works commence and measures need to be put in place to avoid detriment to highway safety in accordance with the aims and objectives of the National Planning Policy Framework (2018).” and

“13. The development hereby permitted shall not be recommenced until details of dust mitigation measures that prevent detriment to the amenity of residential properties shall be submitted to and approved in writing with the Local Planning Authority. The approved measures shall be implemented for the duration of the development.

Reason for the condition and the need for it to be pre-commencement: Dust caused by HGV vehicles can cause impact to neighbouring residential amenity levels as soon as works commence and measures need to be put in place to avoid harm to residential properties in accordance with the aims and objectives of the National Planning Policy Framework (2018).”

Following the grant of planning permission, your officers did receive communication that works had recommenced. Such works were in breach of conditions 11 and 13 as the details as required by those conditions before the requirement of the conditions set out above and as such the landowner was immediately contacted. As far as your officers are aware such works ceased and no further works have been undertaken since the planning permission was issued.

The landowner has now submitted condition approval applications providing details to satisfy conditions 11 and 13. These applications are pending consideration and decisions are likely to be made in the next few weeks.

Date Report Prepared – 17th December 2018

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

The purpose of this report is to provide Members with an update of the progress in relation to the taking of enforcement action against a breach of planning control at this location in accordance with the resolution of Planning Committee at its meeting of 6th November 2018.

RECOMMENDATION

That the information be received.

Background Information

A personal planning permission (reference N14847) was granted for the siting of a mobile home on this Green Belt site due to the personal circumstances of the applicant at that time. The same restrictions were imposed on a subsequent planning permission (reference N21428) for a larger mobile home. Subsequent attempts by the original applicant to vary or remove the conditions were unsuccessful.

It was established that the occupation of the mobile home as a dwellinghouse ceased and on 5th January 2016 Planning Committee resolved that enforcement action should be taken. An Enforcement Notice (EN) was subsequently served which, because no appeal was lodged, came into force on 13th July 2016.

The breach of planning control referred to in the EN was “without planning permission the material change of use of the Land for the storage of a mobile home” and the Notice requires the following to be carried out:-

1. Cease the use of the land for storage of a mobile home by removing the mobile home from the land;
2. Remove from the land all materials associated with the unauthorised use of the land for the storage of a mobile home.

The period within which the steps out within the EN had to be complied with ended 13th January 2017. Subsequent visits to the site established that the Notice had not been complied with.

On 4th January 2017 Planning Committee refused an application (16/00969/FUL) to vary the condition on permission N21428 so that it could be occupied by others. A subsequent appeal was dismissed on 5th January 2018. Shortly afterwards the applicant/appellant took ownership of the site.

In light of the continued non-compliance with the EN and the anticipated occupation of the mobile home by the current owner, a report was brought to the Planning Committee on 27th March 2018 when Committee resolved/noted a number of points with regard to securing compliance with the EN.

A Planning Contravention Notice was served and a belated response was received on 17th September 2018 which indicated that the mobile home had been occupied for residential purposes since April 2018. In addition it indicated that the breach of planning control that was alleged in the EN was not occurring. The same position had been indicated at a site meeting with the owner and his agent in July.

In light of the changed circumstances legal advice was sought. Having considered that advice your Officers' view has been that as a new breach of planning control is taking place (non-compliance with the occupancy condition attached to the mobile home) that has “overtaken” the breach set out in the extant EN. As such no prosecution can be brought or direct/default action taken regarding the breach of planning control identified in that notice (the storage of the mobile home on the site) as that breach is no longer taking place.

Consideration was then given as to the expediency of taking enforcement action in respect of that new breach and the conclusion reached that it is expedient to take enforcement action.

Latest Information

An Enforcement Notice (EN) was served, dated 9th November 2018, regarding the occupation of the mobile home in breach of condition 1 of planning permission N21248. The EN requires the following, all within 4 months after the date this notice takes effect;

- a) Cease the residential occupation of the mobile home on the land.
- b) Remove the mobile home from the land.
- c) Remove from the land all material associated with the residential use of the land.

The EN was due to take effect on 10th December 2018. On 8th December notification was received that an appeal against the EN had been made to the Planning Inspectorate and as such the EN has not yet taken effect.

As yet the Planning Inspectorate has not confirmed that the appeal is valid and has not set out the appeal timetable. The appellant has requested that the procedure that the appeal follows is a hearing. The Planning Inspectorate if they confirm that the appeal is valid will determine the appeal procedure to be followed.

There are seven difference grounds, in section 174(2) of the Town and Country Planning Act, on which an appellant can make an appeal against an Enforcement Notice.

The grounds of appeal advanced to date by the appellant in this case are as follows:

Ground (a) – that planning permission should be granted for what is alleged in the notice, or the “deemed planning application”

Ground (f) – that the steps required to comply with the requirements of the notice exceed what is necessary to remedy any breach of planning control referred to in the notice, and lesser steps would overcome the objections.

Ground (g) – the time given to comply with the notice is too short.

The appellant has yet to expand upon why they consider planning permission should be granted, although they have submitted in support of this ground of appeal various documentation that was provided in connection with the previous dismissed appeal.

With respect to the ground (f) appeal the appellant summarises their case as being that the condition being enforced does not require removal of the caravan or of all materials associated with the residential use of the land. They state that operational development carried out in connection with the use was not authorised by the permission, which was for “use of mobile home as dwellinghouse”, it was carried out more than 10 years ago and is immune from enforcement action. Their position is that the enforcement notice can only require cessation of the use of the mobile home for residential purposes.

With respect to the ground (g) appeal - that the time (4 months) given to comply with the notice is too short – it is submitted that the mobile home is the appellant’s home together with that of his partner and children and the time period for compliance would make this family homeless and disrupt the children’s health care and education. It is disproportionate to the harm being caused by them staying on in a mobile home which has been on the appeal site since 1991. The appellant concludes that a period of at least 18 months should be allowed before they are required to cease the residential use of the mobile home, in order to allow a reasonable amount of time for alternative lawful accommodation to be found.

Date report prepared: 11th December 2018

Confirmation of Tree Preservation Order

Woodland at, Old Butt Lane, Kidsgrove

Tree Preservation Order No 196 (2018)

Town & Country Planning Act 1990

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

The Provisional Order

The Provisional Tree Preservation Order protects trees at Woodland at Old Butt Lane.

The provisional Tree Preservation Order was served using delegated powers on 03/07/2018. The consultation period ended on 31/08/2018.

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

The 6 month period for this Order expires on 2nd February 2018

RECOMMENDATION

That Tree Preservation Order No 196 (2018), Woodland at Old Butt Lane be confirmed as made and that the owners of the site be informed accordingly.

Reasons for Recommendation

Background

The Tree Preservation Order affects an area of woodland at the end of Old Butt Lane in Kidsgrove.

Concern about the future of trees on the site has been raised by local residents.

The site is an area of early mature woodland which is presently unmanaged.

The woodland is clearly visible from Old Butt Lane and from West Avenue (as backdrop trees).

The woodland also adjoins public footpaths 'Kidsgrove 217' and Kidsgrove 'Road south west from Butt Lane Farm'. Its removal would have a significant visual impact upon these routes.

The site is bordered by public footpaths, light industrial land, and residential properties.

The woodland acts as a screen between the quiet residential areas on Old Butt Lane and heavily developed areas on West Avenue.

The woodland will also screen the residential properties from the adjacent ICL development site.

The woodland ecology will also benefit from its direct link to Shipley Wood (adjacent TPOd woodland).

It is considered that the woodland has a high amenity value and its loss would have a negative impact upon the visual amenity, not only of the site but also to the locality.

In order to protect the long-term wellbeing of the woodland it should be protected by a Tree Preservation Order.

Representations

Following the consultation period ten representations were received.

9 representations that supported the order have been received, one of which is from Cllr Dymond and one from Cllr Robinson, the matters raised are summarised as follows:

- Concern about the loss of the woodland
- Historic knowledge of the site.
- Wildlife habitat and use of the site by mammals (badgers foxes bats rabbits hedgehogs stoats and at one time a pine martin) and Birds (woodpeckers spotted/green, owls, creepers, nut hatches, thrushes, sparrow hawks and buzzards)
- Trees act as a screen between residential properties and industrial units
- Woodland buffers noise, vibration, pollution dust and visual pollution
- Health benefits of greenery and woodland
- Local amenity value of the woodland
- Concern about local tree loss due to development
- Footpath routes would be spoiled by the loss of the trees
- Concern about loss of butterfly and moth colonies
- Concern about future development on the site

One representation objected to the order, the matters raised are summarised as follows:

- The group of trees have little amenity value
- Views of the trees are restricted by existing and future industrial units
- Trees are poor quality
- Trees have limited public amenity benefit being only visible from private views
- The placing of the TPO would affect the sites development potential
- The TPO would affect the ability to meet the councils employment and housing needs
- The Borough Council has not completed an ecological survey.
- No existing designation on the site.

Amenity

The trees are clearly visible from public footpaths and Old Butt Lane, and can be seen as Backdrop trees from West Avenue. The woodland acts as visual buffer between the quiet residential area of Old Butt Lane and developed industrial land beyond.

Ecology

The Borough Council would not have any involvement in assessing the ecological quality of the site; any ecological assessment would need to be completed by the developer/owner. The objective of the Tree Preservation Order is to protect the amenity that the woodland provides to the locality and ecological Assessment is not a part of the assessment criteria.

The woodland has become established over time and is identifiable as woodland when viewed from surrounding roads and footpaths. Trees within the woodland are a variety of species, age and quality, all of which if left would continue their cycle of growth, decay and regeneration. The importance of woodland trees to the site is collective and the self-set

shrubby trees (some of which may be of low individual quality) are an important part of its future regeneration. A lack of existing designation on the site plays no part in its assessment.

The woodland appears to have been unmanaged for many years. The Tree Preservation order would not prevent woodland management or the removal of trees in poor health, but would give the council the ability to control the works. Indeed the site would certainly benefit from management with the aim of encouraging regeneration and improvement of woodland or associated habitat for key species or communities.

Development

The Tree Preservation Order will protect the amenity value attributed to this woodland site. It will not prevent the development of the site; however it will ensure that unauthorised removal of trees cannot take place and that the likely impact and justification for any development is fully assessed in any future planning application.

The Tree Preservation Order is considered expedient due to works that were ongoing at the time when the Tree Preservation Order was served, and in the interest of amenity.

Issues

The making of the Order will not prevent the owner from carrying out good management of the woodland, nor improving or developing the site, and it will give the Council the opportunity to control the works and prevent unnecessary cutting down, lopping, topping, uprooting, wilful damage or wilful destruction.

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

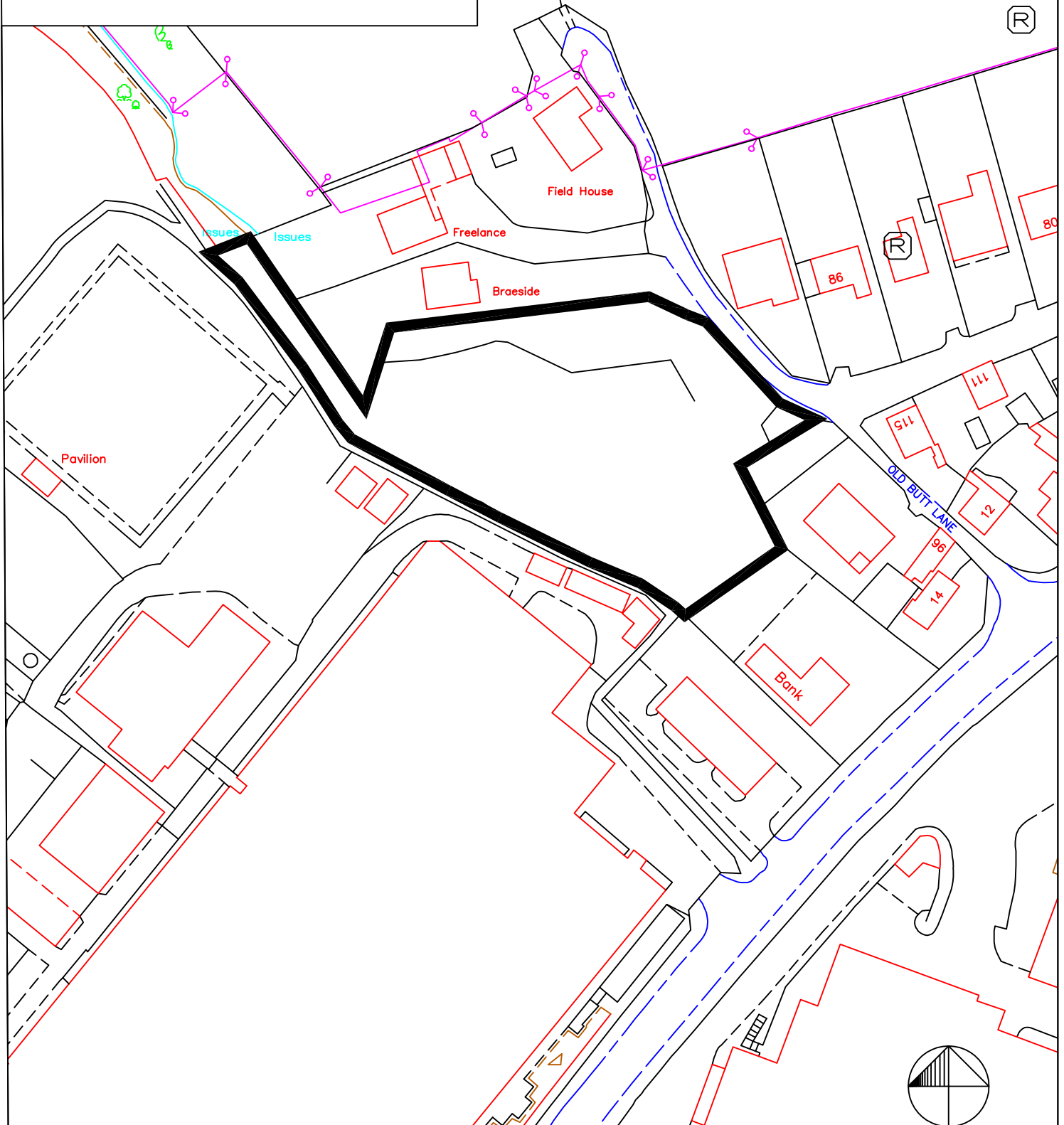
Date report prepared

30th November 2018

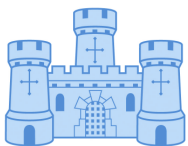
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SIGNED:

DATED:3rd August 2018



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**NEWCASTLE
UNDER LYME
BOROUGH COUNCIL**

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

TITLE:

Land at Old Butt Lane, Kidsgrove

DESCRIPTION:

TREE PRESERVATION ORDER
NUMBER 196 (2018)

SCALE:
1:1000

DATE:
Aug 2018

DRAWN BY:
Page 123

DRAWING NO.
TPO 196

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View from West Avenue



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View from Old Butt Lane



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View from Old Butt Lane 2



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BOROUGH OF NEWCASTLE U LYME DIRECTORATE - RESOURCES		
- 7 AUG 2018		
PASSED TO	CONFER WITH	CIRC TO

86, old Butt Lane
Tacke
ST 7 INR
4th Aug 2018

Dear Sir,

Madam! I am writing to state my appreciation of the tree protection order on the land adjacent to our house.

This land is probably the oldest part of Old Butt Lane. We know that cottages were further along from the land, by the brook in the 1850s.

We also have proof that families lived in that area and found employment at Finley Hall. My husband's gran was born and reared

and found employment as a maid at the hall. Her photos are on the computer with other staff at the hall.

The plot of land in question was probably used as a vegetable garden and orchard. There is a pear tree which we know is over 100 yrs old.

at one corner of the plot is a marker for the Pinehill area.

About thirty years ago the farmer ploughed the edge of his field and unearthed a tip which had in it old bottles, shoes and papers

obviously used by the ~~best~~

residents on a ~~substantive~~

The animal life on the

plot has ~~badgers~~ ^{bats} foxes and

creats - once we saw a pine

hedge.

Bird life is abundant;

they feed at the local

bird table, but go to the wood

to roost and nest.

We regularly see

spotted woodpeckers, crows,

green woodpeckers, crows,

and nutcrackers. Thrushes

have lately appeared after

a long absence.

It would be a crime

to destroy this habitat.

All of these facts

are why I contacted the

environmental area of N. ~~near~~

council to try to stop this

separ from being raised to

the ground for a few houses.

My thanks go to

the tree preservation department

for their quick action to

preserve the habitat and

tree in this area.

Yours faithfully

I would ask you to make
the temporary T.P.O. permanent
for the future. I am
than it be destroyed
for ever.

Jones, Sarah

From: Robinson, Kyle (Cllr)
Sent: 28 August 2018 22:55
To: Hough, Jennet
Cc: Stubbs, Mike (Cllr); Dymond, Sylvia (Cllr)
Subject: Re: [UNCLASSIFIED] RE: Old Butt Lane

Dear Jennet,

I am contacting you regarding the recent emergency tree preservation order put in place on land at the end of Old Butt Lane due to unscrupulous actions of the nearby land owner.

I want to express to you in the strongest possible terms that I am against any further felling of trees in this location. The wood at this location has been in place for many generations and acts as a natural barrier between housing on Old Butt Lane and the industrial site opposite.

The woodland also contains many well established trees of significant value to the community. The woodland is a habitat for wildlife including bats, rabbits, [REDACTED] and hedgehogs. A full assessment needs to be carried out by the Wildlife Trust or any other relevant body if further works are to be carried out at this location. Pictures and wildlife in this location can be provided.

The trees and woodland at this location help to muffle noise pollution created by HGVs passing through West Avenue on an hourly basis. The woodland abates noises from the industrial estate nearby.

The loss of this woodland and any trees would indeed be a huge loss to local amenity that has been available to the public for many years. I urge the council to keep in the place the tree preservation order permanently as a matter of priority.

Also on behalf of ward councillors Sylvia Dymond and Mike Stubbs. I hope you will keep us all up to date regarding any progress on this matter.

Kind regards,

Kyle

Cllr. Kyle Robinson

Labour Group - Deputy Leader

Ward Councillor - Butt Lane and Talke

Newcastle-under-Lyme Borough Council

Website: www.cllrkylrobinson.com

Twitter: kyle_robinson22

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On 28 Aug 2018, at 22:37, Dymond, Sylvia (Cllr [REDACTED]) wrote:

Kindest Regards
Cllr Sylvia Dymond

Begin forwarded message:

From: "Hough, Jennet" [REDACTED]
Date: 6 August 2018 at 13:50:36 BST
To: "Dymond, Sylvia (Cllr)" [REDACTED]
Cc: "Allen, Rebecca" [REDACTED]
Subject: [UNCLASSIFIED]

[Classification: NULBC UNCLASSIFIED]

Dear Cllr Dymond

Thank you for your email.

The emergency Tree Preservation Order that affects land at the end of Old Butt Lane will be in force for 6 months. This is to allow for a period of consultation whereby anyone objecting or supporting the order can make their representations to the council. When the consultation period has ended (in this case on 31st August 2018) officers will consider all of the representations made and will report the outcome to planning committee. Members of the Planning committee will then make the final decision as to whether the TPO can be confirmed (in other words, made permanent).

Please could you let me know if the tree that you are concerned about on Church Street has been felled, and provide a description of its location?

I've attached some guidance on Tree Preservation Orders which you/your residents may find useful.

Kind regards
Jen

Jennet Hough
Landscape Officer
Newcastle under Lyme Borough Council
(not in work on Wednesdays)
Tel: 01782 742500
www.newcastle-staffs.gov.uk
Mail: [REDACTED]
www.newcastle-staffs.gov.uk

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that is privileged and confidential within the meaning of the applicable law. Accordingly any dissemination, distribution, copying or other use of this message or any of its content by any other person may constitute a breach of civil or criminal law and is strictly prohibited. If you are not the Intended recipient please contact the sender as soon as possible. Any views expressed in this message are those of the individual sender and may not necessarily reflect the views of Newcastle-under-Lyme Borough Council.

-----Original Message-----

From: Dymond, Sylvia (Cllr)

Sent: 06 August 2018 12:36

To: Hough, Jennet

Subject: Old Butt Lane

Dear Jennet

Thank you for your swift action relating to the trees on old Butt Lane and your voicemail, I have tried to call but was 6th in the queue, can you please advice as to whether this is a temporary TPO and will the owners try to revoke it do you think?

The residents are over the moon that the tree surgeons were stopped, but are a little worried that it may be ongoing.

I have also had a report of another tree on the lane behind Church Street has been chopped down, I will go and take a look as If I remember correctly on the original Taylor Wimpey plans for the build on Bluebell Croft there were about 3 that were not to be touched, a few residents have voiced complaints. Once again thank you for your help.

Kindest Regards

Cllr Sylvia Dymond

Classifier Attachment List:

[Protected trees A guide to preservation procedures.pdf - No Marking]

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Jones, Sarah

From: Dymond, Sylvia (Cllr)
Sent: 29 August 2018 21:32
To: Hough, Jennet
Cc: Robinson, Kyle (Cllr); Stubbs, Mike (Cllr)
Subject: Woodland in Old Butt Lane

Dear Jennet

I would like to relate that I am strongly against any felling of the trees in the woods that have recently had the emergency TPO attached in Old Butt Lane.

The local residents have contacted me to express their concerns about the wildlife which is vast and includes, bats, [REDACTED] hedgehogs and owls along with the established trees, some of which are very significant in size.

They have related that former MP Mrs Whalley some 30 years ago was very helpful in keeping the woods as a barrier between the local houses and the industrial estate.

The Industrial estate is fast being rebuilt and the industrial traffic is vastly increasing, there are new factories being built along with over 300 new houses, this established woodland is one of the only barriers left.

There has been a lot of change in the area recently and a loss of some of the woods opposite on the new estate at Bluebell Croft means we have less established woodland.

I would like a full assessment of the woods to be undertaken and hope that the council will see that areas like this woodland are beneficial to the area.

Kindest Regards
Cllr Sylvia Dymond

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Jones, Sarah

From: landscape
Sent: 08 August 2018 09:28
To: Hough, Jennet
Subject: [UNCLASSIFIED] FW: Jennet Hough re; TPO Old Butt lane

[Classification: NULBC UNCLASSIFIED]

From: Gail Makepeace [REDACTED]
Sent: 07 August 2018 23:33
To: landscape
Subject: Jennet Hough re; TPO Old Butt lane

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Hello Mrs Hough,

I am writing to express my concerns regarding the removal of historic trees, bushes shrubs and an orchard known as Linley Woods, Butt Lane.

I have recently noticed that a TPO 196 (2018) has been applied for on this land at Old Butt Lane, Talke.

It is in my opinion, it is an area of outstanding beauty and local interest, which needs a permanent TPO attached to it, in order for no future development ever to be considered.

In recent years there has been a considerable amount of new houses built along West Avenue, which has added significantly to the destruction of wildlife habitats, including for foxes, bats [REDACTED] etc. If this mass development continues unchecked, woodland areas such as Butt Lane, will be lost forever.

I believe that this area of woodland should have a TPO, as any additional residential development is totally unacceptable and will destroy the conservation of this area completely.

As a local resident I will object strongly to any removal of trees, bushes, hedgerows and orchards on this land, and will do whatever it takes to save it from being developed. There is significant history attached to this site, the land once belonging to Linley Hall, has laid undisturbed for centuries, and needs to remain intact.

There are so few pockets of undisturbed woodland left in Staffordshire, it is our duty to speak out and protect these diminishing areas.

It is paramount that in order for future generations to be able to observe such landscapes, we have a duty to protect woodlands and the wildlife residing in it.

I will be happy for you to contact me if I can be of any help with having a TPO permanently attached to this land.

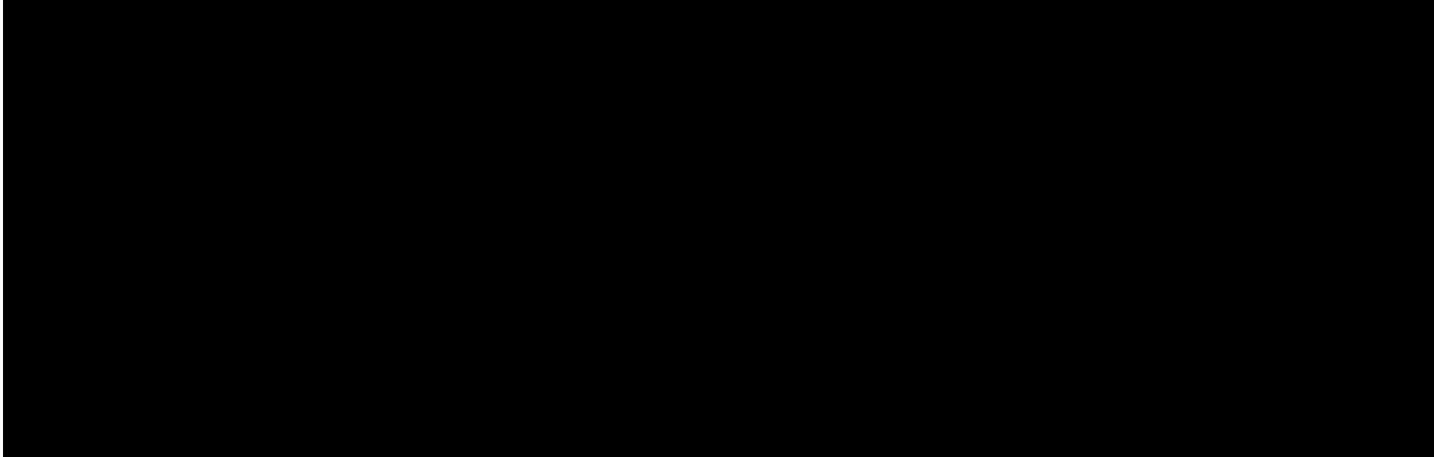
Yours

Gail Makepeace
12, West Avenue,
Butt Lane.

Jones, Sarah

From: landscape
Sent: 08 August 2018 09:29
To: Hough, Jennet
Subject: [UNCLASSIFIED] FW: Tree Preservation Order No 196 (2018) (Our Comments)

[Classification: NULBC UNCLASSIFIED]



From: Lynne White [REDACTED]
Sent: 06 August 2018 19:37
To: landscape
Cc: Lee White
Subject: Tree Preservation Order No 196 (2018) (Our Comments)

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Objections and representations

6.—(1) Subject to paragraph (2), objections and representations—

(a) shall be made in writing and—

(i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

F.A.O. Jennet Hough / Dave Adams

From
Lee White and Lynne White
107 Old Butt Lane
ST7 1NS



Hello

We would like you to take our comments into consideration with regards to the woodland / tree area mentioned at the bottom of Old Butt Lane. Tree Preservation Order No 196 (2018)

As fairly new residents (March 2017), we chose this specific lane to live because it was quiet and the nearby factories and trading areas on West Avenue were concealed by the woodland thus keeping this residential area a nice lane which is used by walkers and dog walkers as a place to walk away from the many houses in the area.

The tree area ensures that we are naturally segregated from the view of this industrial area, that the area is partly protected from the noise, vibration from wagons and pollution from the industrial estate and the trees provide some form of protection but not wholly, from the dust that has been generated on this land during the first year we have been resident on Old Butt Lane.

To the local walkers it would spoil their walkway as the view would then become the industrial area and not a wooded area.

The environment would change considerably if the trees are not preserved.

Kind regards
Lee and Lynne

Jones, Sarah

From: Marion Delves [REDACTED]
Sent: 09 August 2018 16:14
To: Hough, Jennet
Subject: Tree preservation order no. 196 (2018) land at old Butt Lane, kidsgrove

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

We (Nigel and Marion Delves) have lived next door to this little piece of woodland since 1986. As it has never been maintained for so many years it is full of wildlife ([REDACTED] foxes, bats, wild pigeons, woodpeckers to name but a few. It also has an orchard and a pear tree which must be over 100 years.

There is a brook running through the area (the water drains off the surrounding land including the fields across from us) and feeds a "well" before continuing down towards the other woodland at the opposite side of our house.

The footpaths are constantly in use with families out walking and enjoying the wildlife, as we do.

Thank you for your quick attention to this matter and hope our remarks will be noted.
Sent from my iPad

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Jones, Sarah

From: landscape
Sent: 13 August 2018 14:25
To: Hough, Jennet
Subject: [PROTECT/PER] FW: Tree preservation order Old Butt Lane

[Classification: NULBC **PROTECT** Personal]



From: Philippa Cartledge-Riley
Sent: 11 August 2018 17:24
To: landscape
Subject: Tree preservation order Old Butt Lane

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

FOR THE ATTENTION OF Jannet Hough

Dear Jannett

I write in support of preserving the trees and shrubbery bordering the industrial estate and residential properties on West Ave and Old Butt Lane. I live at number 115 Old Butt Lane, our property dates back to 1906 and was aptly named "Wood View". The trees in question screen our house from the neighbouring industrial units which are permitted to run their deliveries 24hrs per day. We are occasionally disturbed by reversing sensors on waggons and the hum of air conditioning units when the wind blows in a certain direction. The trees and shrubbery help to diffuse this noise without them I believe the noise would be unbearable. These trees also offer habitat to a large array of wildlife including bats, birds of prey, foxes etc. This is what attracted us to the property as my husband lives with chronic health problems, the greenery and close proximity to the public footpath allows easy access to the countryside which is beneficial to our health and wellbeing. I strongly believe the residents of Old Butt Lane have already been let down by indiscriminate land clearance along West Ave. Land cleared of established trees and shrubbery only to be left derelict for years. Please consider my comments in full support of the tree preservation order. Please don't hesitate to contact me or my husband Mick if you wish to discuss anything further.

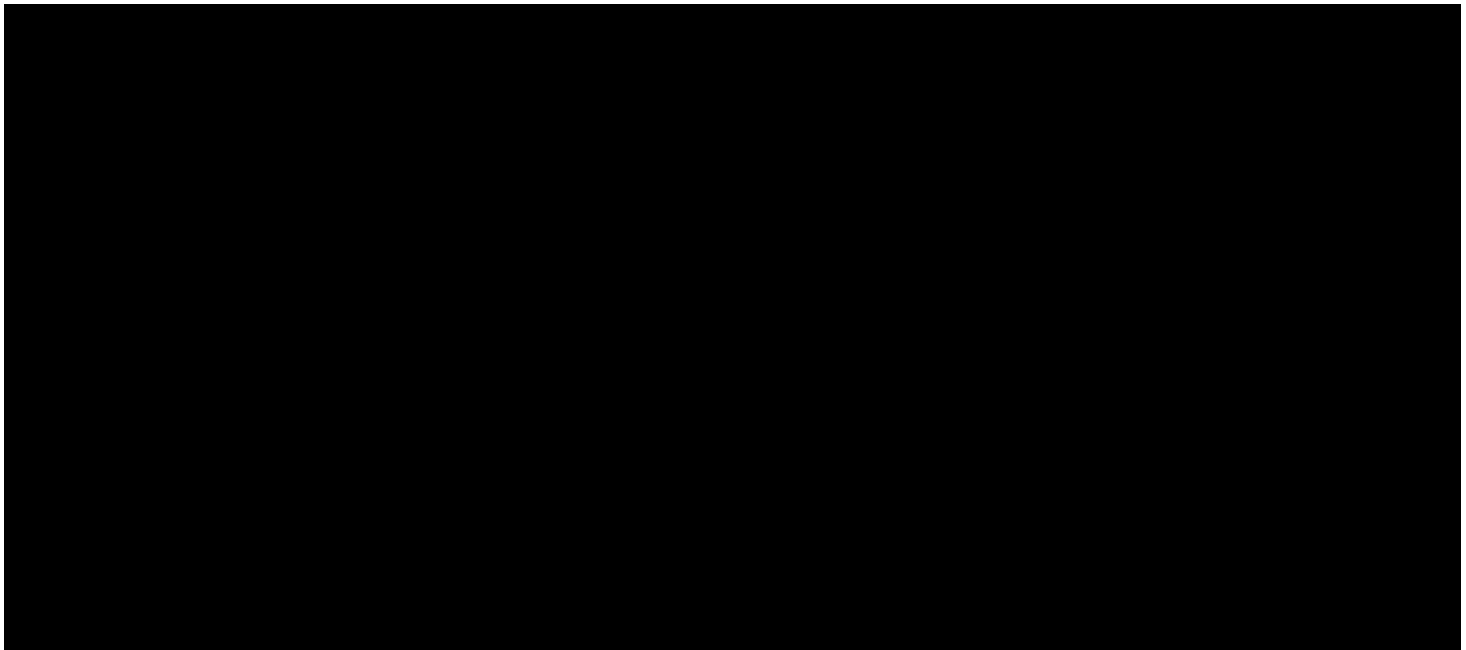
Yours sincerely
Philippa Cartledge-Riley
Mick Riley



Jones, Sarah

From: landscape
Sent: 28 August 2018 08:22
To: Hough, Jennet
Subject: [UNCLASSIFIED] FW: Tree Preservation Order No. 196 (2018) Land at Old Butt, Kidsgrove

[Classification: NULBC **UNCLASSIFIED**]



From: [Redacted]
Sent: 27 August 2018 19:54
To: landscape
Subject: Tree Preservation Order No. 196 (2018) Land at Old Butt, Kidsgrove

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

For the attention of Jennet Hough

We are writing in response to the above Tree Preservation Order, which we wholeheartedly support, and make comment below.

The trees provide essential screening to properties in Old Butt Lane, not only in terms of blocking the sight of commercial buildings, but also to help filter pollution from the busy surrounding roads. We have lived at 80 Old Butt Lane for almost 35 years and seen considerable change, in particular to areas of nearby green space, developed for housing. We experienced noise and pollution during this time and, more importantly, lost the presence of wildlife, moth and butterfly colonies.

The small woodland in question is surely worthy of preservation for the benefit of wildlife, for example, [REDACTED] hedgehogs and foxes. We also see sparrow hawks and buzzards, which nest there. Surely we can allow this small wood to escape more house building. The number of homes able to be built there will be insignificant, when compared with the huge estate recently built on the opposite side of West Avenue.

Apart from all the above reasons to preserve this woodland, any building work would bring chaos and more pollution to a very small lane, where parking is already limited.

We hope you will consider these comments favourably and give thought to the devastation that we, as a nation, continually, and without knowing the consequences, cause to our sadly diminishing wild life. Our country has always been reputed as a 'green and pleasant land' but if we continue to foster the idea of more and more house building, instead of preserving some trees and woodlands, we will no longer be able to claim this reputation.

Yours,

Peter Horton

Sent from Surface

Jones, Sarah

From: landscape
Sent: 06 August 2018 11:06
To: Hough, Jennet
Subject: [UNCLASSIFIED] FW: FAO Jennet Hough. TPO on land at Western end of Old Butt Lane,Talke,ST7 1NR.

[Classification: NULBC UNCLASSIFIED]

-----Original Message-----

From: Robert Phillips [REDACTED]
Sent: 06 August 2018
To: landscape
Subject: FAO Jennet Hough. TPO on land at Western end of Old Butt Lane,Talke,ST7 1NR.

This email has been received from an address outside the Council, please be very cautious when opening any attachments or clicking on any links herein.

Sent from my iPad This parcel of land bears significant historic features which need to be respected when considering the extension of the TPO to permanent status. At previous planning applications it was decreed that this parcel of land created a natural barrier or screen between domestic dwelling and industrial endeavours, a feature which I believe should be maintained to clearly define the separation of disparate activity. Night time noise already emanates from existing industrial activity so adequate separation is essential in the circumstances.

This land also supports a number of mature trees of considerable size to provide full canopy and woodland environment. This in turn creates habitat for a wide variety of bird and animal wildlife, including bats, [REDACTED] owls and raptors.

Historically this land has always been domestic in nature and should not be considered for industrial use, having been cottage garden in previous centuries.

A number of other features of this parcel include an old well, outlet to land drains from nearby fields and low lying run off of storm water and ancient subterranean mining workings, leading to tributaries of the River Weaver.

One other feature of historic significance is the existence of a diascen boundary stone regarding the bishopries of Lichfield and / or Chester.

In considering the possible permanence of the TPO may I request some rumination regarding the overall features pertinent to this land in relation to adjacent residents and the natural environment.

Yours faithfully,
Robert N. Phillips.

Jennet Hough
c/o Operational Services
Newcastle under Lyme Borough Council
Civic Offices
Merrial Street
Newcastle under Lyme
Staffordshire
ST5 2AG

By email
landscape@newcastle-staffs.gov.uk
jennet.hough@newcastle-staffs.gov.uk

31 August 2018

let.001.LM.JS.28370002

Dear Jennet

LAND AT OLD BUTT LANE, KIDSGROVE - TOWN AND COUNTRY PLANNING ACT (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012 REGULATION 3 NOTICE – TREE PRESERVATION ORDER NO 196 (2018)

We refer to the above provisional Tree Preservation Order and by way of this letter we object to the order on behalf of the landowner, Orchard Green Developments Ltd. We respectfully request that the Order is not confirmed.

On 3 August 2018 Newcastle under Lyme Borough Council placed a provisional Tree Preservation Order (TPO) relating to:

"An area of woodland at the end of Old Butt Lane, Kidsgrove."

This provisional TPO relates to an area of *early mature woodland which is presently unmanaged*. The stated reasons for placing the provisional TPO are:

The woodland is clearly visible from Old Butt Lane and from West Avenue (as backdrop trees). The woodland also adjoins public footpaths 'Kidsgrove 217' and Kidsgrove 'Road south west from Butt Lane Farm'. Its removal would have significant visual impact upon these routes. The site is bordered by public footpaths, light industrial land, and residential properties. The woodland acts as a screen between the quiet residential areas on Old Butt Lane and heavily developed areas on West Avenue.

The woodland will also screen the residential development properties from adjacent ICL development site. The woodland ecology will also benefit from its direct link to Shipley Wood (adjacent TPOd woodland). It is considered that the woodland has a high amenity value and its loss would have a negative impact upon the visual amenity, not only the site but also to the

locality. In order to protect the long-term wellbeing of the woodland it should be protected by a Tree Preservation Order.

As set out in the Town and Country Planning Act (1990) Local Authorities can make a TPO if it appears to them to be *“expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”*.

As set out in National Planning Policy Guidance (NPPG), objections to newly made TPOs can be made on any grounds. As such, matters relating to ecology, amenity and development potential are discussed in further detail below.

Woodland

The group of trees which are subject to the provisional TPO are referred to in the Order as a ‘woodland’. The definition of a ‘woodland’, as set out in the NPPG states:

“Orders covering a woodland protect the trees and saplings of whatever size within the identified area, including those planted or growing naturally after the Order was made. This is because the purpose of the Order is to safeguard the woodland as a whole, which depends on regeneration or new planting”

Although the trees fall within the definition of a ‘woodland’ they consist of self-seeded, shrubby trees of poor quality and have limited merit either individually or as a group. Apart from stating the trees form a group, the TPO has been placed without assessing the trees health or quality and no ecological work has been undertaken. The Order is therefore unable to identify the species, size or age of the trees.

The group of trees subject to the TPO has not previously been identified as a woodland as illustrated on the Ordnance Survey Base Map of the site (Appendix 1). This implies the group of trees has not been regarded to be an area of high significance previously and as such has limited environmental and ecological benefit. In addition, there are no environmental policy designations on or within close proximity to the site, such as areas of public open space or ecological value. This further demonstrates the limited ecological benefit the trees provide to the surrounding area.

Amenity Value

The Council consider this group of trees to be clearly visible and have a high amenity value not only to the site but to the surrounding local area. However, the visual amenity to the surrounding roads, residential dwellings and public rights of way is limited.

From West Avenue the trees are heavily obscured by the existing industrial buildings to the east of the proposed TPO. The trees which are visible from West Avenue are located within the boundary of industrial units to the south, and not within the proposed TPO. Further industrial development on the site to the south of the TPO area, as proposed by the Council through the draft allocation in Stoke-

on-Trent and Newcastle under Lyne's Local Plan, will further obscure any view of the trees from the surrounding area. Therefore, the trees do not provide a high amenity value.

Although the trees provide some relief and visual amenity to the immediate residential dwellings to the north, along Old Butt Lane, this is the only location where the trees are visible and could provide any level of amenity. However, these are private views of the trees from a small number of houses and does not provide wider views. Old Butt Lane is a quiet, narrow cul-de-sac serving a limited number of dwellings. Given its limited usage, this diminishes the public amenity role of the trees visible from it.

Given the trees are self-seeded, shrubby trees of poor quality, as a whole, this group provides little amenity value to the surrounding area.

The Council also attribute to the amenity value to the public footpaths running through the site. However, the footpath runs through an industrial area and brownfield land, which has been identified for further industrial development, providing little amenity value to users of the footpath. The trees at present make a minimal contribution to the paths and engagement of its users, which clearly are in an urban area, as they enter the path alongside commercial uses. The trees provide very limited relief to the nature of the path use which only changes when it passes further along into the open countryside.

Development Potential

The confirmation of the provisional TPO will limit the development ability of the allocated site. The land adjacent to and including the proposed TPO at Old Butt Lane, Kidsgrove (site location plan enclosed at Appendix 1) is a previously developed and cleared site. It is located within the urban area, of Kidsgrove, adjacent to an existing industrial estate and offers a suitable and available location for development. Consent has been granted for residential development on a number of sites within close proximity, including opposite and further to the south east. This further demonstrates the site as a key location for development.

This site is currently allocated as a proposed employment allocation in Stoke-on-Trent and Newcastle under Lyne Local Plan Preferred Options. However, discussions have been had between the Council and Persimmon Homes with regards to delivering residential development on the site.

Regardless of the form of development, placing a TPO on the group of self-seeded trees on the eastern side of the site would restrict both the layout and the net developable area of the site. This will reduce adversely the site's ability to produce new jobs or homes and subsequent investment within the borough.

Furthermore, the land is not allocated as public open space or as a site of ecological importance. Therefore, the TPO would be the only constraint on the site which would prevent development coming forward. Any development which could occur would be restricted by the TPO and it would present a management burden on the resultant smaller site. This impact on the deliverability of the site will deter

potential developers from investing and reduce its ability to contribute to the social or economic needs of the borough, which conflicts with the aim of the draft employment allocation.

Summary

The group of trees subject to the TPO have very little amenity value. The trees are restricted from contributing to the local character by existing industrial units, and will only become further obscured following the development of land to the south of the trees. The trees are of poor quality and are only visible to private views from a small number of neighbouring houses. Therefore they have limited public amenity benefit. As the site is located within the urban area of Kidsgrove and has been identified by the Council for an employment use it offers a suitable and available location for development in order to contribute towards economic growth in the local area.

The placing of a TPO on the site would significantly affect the site's development potential and the ability to meet the Council's employment and housing needs. Given the trees subject to the TPO provide low amenity value and very little public benefit, this does not outweigh the substantial harm their preservation will do to the development of the site and its resultant socio-economic benefits to the borough.

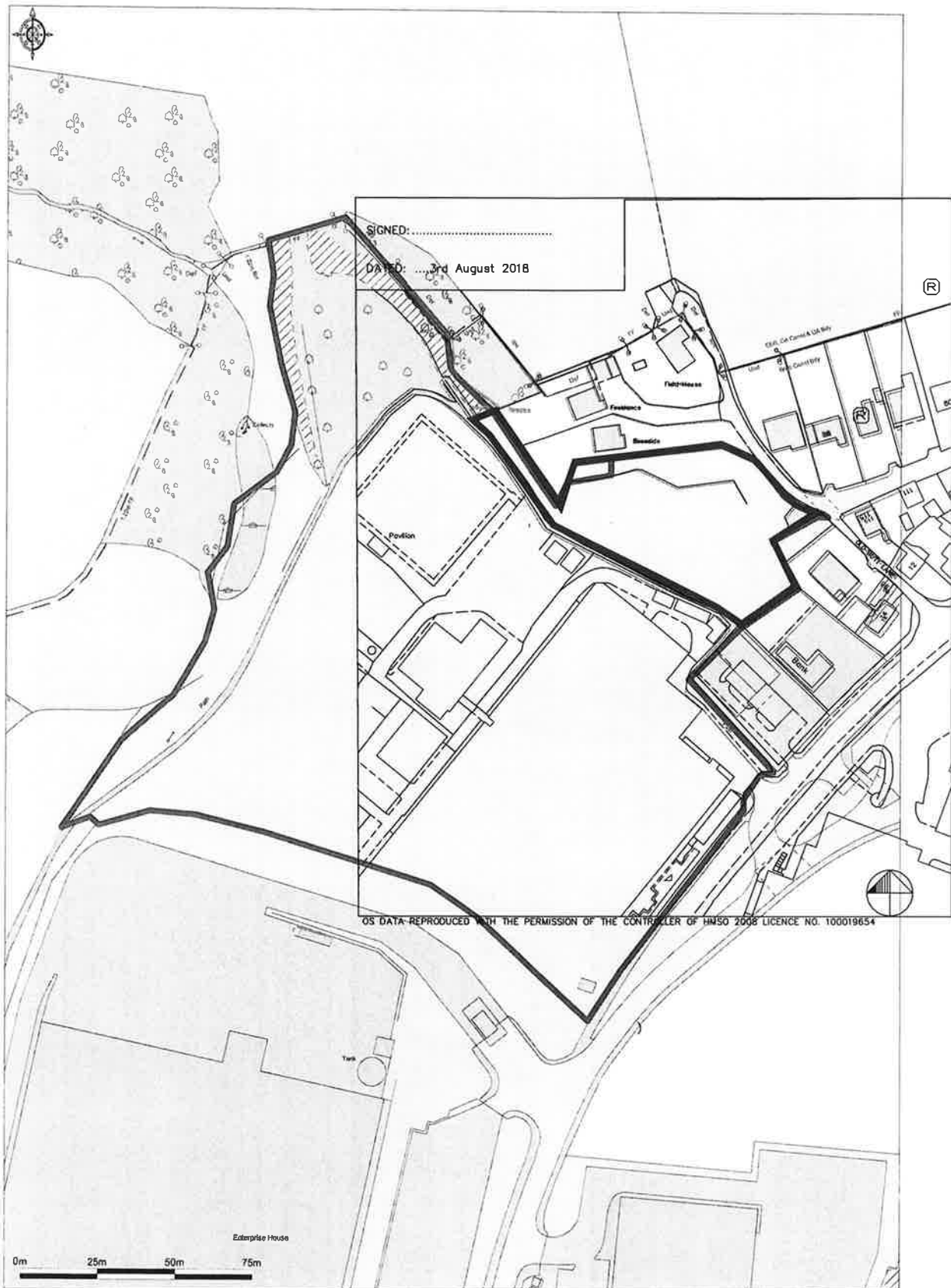
Overall, given the above, it is therefore requested that the TPO is not confirmed.

Yours sincerely



Laura Miller

Enc: Site Plan
cc: Orchard Green Developments Ltd



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Licence number 10002182. Printed scale: 1:1250

Harris Lamb

- Site boundary
- Tree preservation order boundary

