

Public Document Pack

Date of meeting Tuesday, 10th September, 2019
Time 7.00 pm
Venue Lancaster Buildings, - Ironmarket, Newcastle, Staffs
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 - 10)
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - SEABRIDGE COMMUNITY EDUCATION CENTRE, ROE LANE. STAFFORDSHIRE COUNTY COUNCIL. 19/00515/OUT** (Pages 11 - 24)
- 5 **APPLICATION FOR MINOR DEVELOPMENT - THE BARN, BARTHOMLEY ROAD, AUDLEY. MR & MRS McCREADY. 19/00448/FUL & 19/00646/DOB** (Pages 25 - 32)
- 6 **APPLICATION FOR MINOR DEVELOPMENT - SMITHY COTTAGES, SMITHY CORNER, BAR HILL, MADELEY. MR L CLARKE. 19/00552/FUL** (Pages 33 - 42)
- 7 **QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED** (Pages 43 - 48)
- 8 **REPORT ON OPEN ENFORCEMENT CASES** (Pages 49 - 50)
- 9 **LIST OF LOCAL VALIDATION REQUIREMENTS FOR PLANNING AND LISTED BUILDING CONSENT APPLICATIONS** (Pages 51 - 62)
- 10 **APPEAL DECISION - LAND ADJACENT TO 6 BRASSINGTON TERRACE, DEN LANE, WRINEHILL. 18/00376/OUT** (Pages 63 - 66)

- 11 APPEAL DECISION - PLOT 146 MELVILLE COURT, CLAYTON. (Pages 67 - 70)
18/00451/FUL
- 12 APPEAL DECISION - THE BRACKENS, LEYCETT LANE, (Pages 71 - 72)
LEYCETT. 18/00444/FUL
- 13 APPEAL DECISION - (former) ROBERT COATES PLANT (Pages 73 - 74)
SALES LTD. CONGLETON ROAD, BUTT LANE. 18/00987/ADV
- 14 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), D. Jones, H. Maxfield, S. Moffat, P. Northcott, B. Proctor, M. Reddish (Vice-Chair), S Tagg, G Williams and J Williams

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

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

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

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

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PLANNING COMMITTEE

Tuesday, 13th August, 2019
Time of Commencement: 7.00 pm

- Present:-** Councillor Andrew Fear – in the Chair
- Councillors S. Burgess, Mrs J Cooper, D. Jones,
H. Maxfield, S. Moffat, P. Northcott,
B. Proctor, M. Reddish, S Tagg,
G Williams and J Williams
- Officers Becky Allen - Landscape Manager, Geoff
Durham - Mayor's Secretary / Member
Support Officer, Elaine Moulton -
Development Management Team
Manager, Trevor Vernon -Solicitor and
Darren Walters- Team Leader
Environmental Protection
- Apologies Councillor(s)

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

Trevor Vernon stated that he was an employee of Stoke on Trent City Council but was representing Newcastle Borough Council at this meeting. Mr Vernon was not aware of application 17/00834/FUL and had not advised Stoke on Trent City Council on any matters in relation to this and therefore felt able to advise the Planning Committee.

3. MINUTES OF PREVIOUS MEETING(S)

Resolved: That the minutes of the meeting held on 16 July, 2019 be agreed as a correct record.

4. GUY BENSON

The Chair advised Members that this was to have been Guy Benson's final Planning Committee prior to retirement. Mr Benson had unfortunately been taken ill and was not present. Therefore, the Chair felt it inappropriate to speak about Guy in his absence and would comment at a later date.

The Chair and Members of the Planning Committee wished him well for a speedy recovery.

5. APPLICATION FOR MAJOR DEVELOPMENT - LAND TO NORTH OF SHELTON BOULEVARD, THE SOUTH OF NEWPORT LANE AND IN BETWEEN FESTIVAL WAY AND THE A500 (QUEENSWAY), AND LAND AT GRANGE LANE, WOLSTANTON. CITY OF STOKE-ON-TRENT COUNCIL. 17/00834/FUL

- Resolved:** (1) That your Officer be given delegated authority, subject to
- (a) him determining upon the receipt from the applicant of amended plans and/or additional information whether for the avoidance of material prejudice to third parties, publicity should be given to such application material and an opportunity provided to those parties to submit comments to the Local Planning Authority, and
 - (b) the Highway Authority in response to such amended plans/additional information maintaining their current position – that planning permission can be granted subject to conditions, and
 - (c) Highways England, in response to such amended plans/additional information, then recommending that conditions should be attached to any permission that may be granted (and such conditions being considered by your Officer as appropriate)

the application be permitted subject to the undermentioned conditions (and any additional conditions falling within category (c) above):

- (i) Time limit conditions
- (ii) Approved plans
- (iii) Prior approval of details of a surface water drainage system for the A500 trunk road.
- (iv) Prior to commencement submission and approval of a detailed programme of phasing.
- (v) Prior approval of earthworks and ground alteration works required due to the realignment of the southbound A500 off slip road
- (vi) A Construction Environmental Management Plan to include a range of best practice construction phase dust mitigation measures and to take account of any cumulative impact of this development taking place at the same time as the Highways England A500 improvements
- (vii) Landscaping scheme which identifies the trees that are to be removed, those that are to be retained and replacement tree planting is secured
- (viii) Tree protection measures for the retained trees
- (ix) Prior approval of the details of the maintenance access to the former coal yard site
- (x) Prior to first use of the Etruria Valley Link Road (EVLR) the proposed junction improvement at the junction of A527 Grange Lane and the A500 shall be completed in accordance with the approved plans including any amendments required by the Road Safety Stage 2 and 3 Audits.
- (xi) Prior to first use of the EVLR the proposed junction improvement at the junction of A527 Grange Lane and Church Lane shall be completed in accordance with the approved plans including any amendments required by the Road Safety Stage 2 and 3 Audits.
- (xii) Prior to the commencement of the development details of the proposed viaduct carrying the EVLR over the railway shall be submitted and approved by the LPA and shall thereafter be provided in accordance with the approved details.
- (xiii) Notwithstanding the details shown on the approved plans, prior to the commencement of the development full details of the pedestrian/cycle

crossing facilities to the cycle route provided through the junction between Grange Lane and the EVLR shall be submitted to and approved by the LPA. The facilities shall thereafter be provided and retained in accordance with the approved details prior to first use of the EVLR.

- (xiv) Prior to first use of the proposed development, details shall be submitted and approved in writing indicating an adequate Traffic Management Arrangement for the future maintenance of the road lighting columns within the underpass beneath the A500 at the A500/Grange Lane junction.
- (xv) All reasonable and appropriate conditions recommended by Highways England
- (xvi) Railings to be provided at the Grange Lane/Church Lane junction.

- (2) That in the event of EITHER representations being received in response to the publicity referred to in (a) above which relate directly to the changes/additional information the application be brought back to the Planning Committee, OR (b) above or (c) above not being the case, the application be brought back to the Committee for further consideration

and

- (3) That the above decision be communicated to the City Council and that the City Council be advised that the Borough Council has no objections to the City Council as Local Planning Authority granting application 61768/FUL subject to such conditions as your officers consider may be required to ensure a consistency of approach to matters such as pedestrian and cycle facilities

6. MATTER OF URGENCY DECISION WITH RESPECT TO CROFT FARM APPEAL

This item would be discussed under closed session at the end of the meeting.

7. APPLICATION FOR OTHER DEVELOPMENT - LAND BORDERING MADELEY POOL, POOLSIDE, MADELEY. NEWCASTLE BOROUGH COUNCIL. 19/00514/DEEM4

Resolved: That, subject to the consideration of any representations received by 15th August and such representations not raising planning issues that have not been addressed within this report and which can't be addressed through the imposition of appropriate conditions, the Head of Planning be given the delegated authority to:

permit the application, subject to the undermentioned conditions:

- (i) Time Limit
- (ii) Approved Plans
- (iii) Any additional conditions considered appropriate including and appropriately worded tree protection condition if required.

8. APPLICATION FOR OTHER DEVELOPMENT - 12, GRANVILLE AVENUE, MAY BANK. MR THOMAS MILLARD. 19/00506/FUL

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

- (i) Standard time limit for commencement of development.
- (ii) Approved plans.

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

Resolved: (i) That the report be noted.
(ii) That the Head of Planning continue to report, on a quarterly basis, on the exercise of his authority to extend the period of time for an applicant to enter into Section 106 obligations.

10. APPEAL DECISION - 80 APEDALE ROAD, WOOD LANE. 18/00640/OUT

Resolved: That the appeal decision be noted.

11. APPEAL AND COSTS DECISIONS - LAND OFF WATERMILLS ROAD, CHESTERTON. 18/00017/REM

Resolved: That the appeal and cost decisions be noted.

12. CONFIRMATION OF ARTICLE 4 DIRECTION FOR MAER CONSERVATION AREA

Resolved: That the non-immediate Article 4 Direction for Maer Conservation Area be confirmed as coming into force on 17 August 2019 as set out in the Direction.

13. 5 BOGGS COTTAGE, KEELE. 14/00036/207C3

Members were frustrated with recent activity on the site and were disappointed with the Planning Inspectorate in respect of resolving the issues. Members agreed unanimously to send a letter to the Inspectorate expressing their disappointment.

Resolved: (i) That the information be received.
(ii) That a further update be provided to Planning Committee in two months.
(iii) The site to be visited before the next meeting at which the matter is rep
(iv) That a letter be sent to the Planning Inspectorate on behalf of the Planning Committee expressing concerns about the delay and asking that the matter be expedited.

14. LAND AT DODDLEPOOL, BETLEY. 17/00186/207C2

Resolved: (i) That the information be received
(ii) That a further update be brought back to the Planning Committee in 2 months time.

15. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) -TOWER, KIDSGROVE (REF: 19/20002/HBG).

Councillor Burgess stated that she was a member of Kidsgrove Town Council but was not a member of the Finance Committee. Councillor Maxfield was also a Member of Kidsgrove Town Council and also on the Finance Committee. Councillor Maxfield therefore took no part in this application.

Resolved: That a grant of £1,090 be provided towards masonry repair and vegetation removal at the tower, subject to the appropriate standard conditions.

16. TREE PRESERVATION ORDER -GREYHOUND GAP, GRINDLESTONE EDGE HOUSE, COBMOOR ROAD, KIDSGROVE. TPO 202

Resolved: That Tree Preservation Order No 202 (2019), Trees at and around Grindlestone Edge House, Cobmoor Road, Kidsgrove be confirmed as made and that the owners of the site be informed accordingly.

17. TREE PRESERVATION ORDER - LAND AT THE OLD VICARAGE, 1 CONGLETON ROAD, MOW COP. TPO 204

Resolved: That Tree Preservation Order No 204 (2019), The Old Vicarage, 1 Congleton Road, Mow Cop be confirmed as made and that the owners of the site be informed accordingly.

18. URGENT BUSINESS

Tree Preservation Order – The Crescent, Pinewood Drive, Ashley Heath. TPO203

The item was considered as urgent as the deadline for expiry of this Temporary Tree Preservation Order is 1 September, 2019 and the next meeting of Planning Committee is not until 10 September, 2019.

Resolved: That Tree Preservation Order No 203(2019), Land at the Crescent, Pinewood drive, loggerheads, be confirmed as modified and that the owners of the site be informed accordingly.

19. DISCLOSURE OF EXEMPT INFORMATION

Resolved:- That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs 1,2, and 3 in Part 1 of Schedule 12A of the Local Government Act, 1972.

20. MATTER OF URGENCY DECISION WITH RESPECT TO CROFT FARM APPEAL

Members discussed this application which had been refused by the Planning Committee on 26 February, 2019. The refusal was appealed against and the Planning Inspectorate allowed the appeal.

The application was discussed at length and legal advice was sought about the Council appealing against the Planning Inspectorate's decision. The advice given was that this not a viable option.

- Resolved:**
- A. That the decisions of your Officer taken on 5th July under the Matters of Urgency provisions, following consultation with the Chair, that:
- (i) the Council should agree to enter into a Section 106 agreement that secures 25% affordable housing on the appeal site, should the appeal be allowed;
 - (ii) the Council enter into an agreement that secures, in the alternative, one affordable dwelling on site and a payment of £12,000 (for offsite affordable housing provision), should the appeal be allowed, and that its position in such negotiations be that the agreement include a financial reappraisal mechanism in the event of the development not being 'substantially commenced' within 18 months of the grant of the outline planning permission;
 - (iii) if the appellant refused to include such reappraisal mechanism the Council still be prepared to enter into the agreement; and
 - (iv) officers had authority in commenting upon any agreements that may be submitted by the appellant to the Planning Inspectorate to put the case to the Inspector for the inclusion of a financial reappraisal mechanism;

be noted.

B. That the appeal and costs decisions now received be noted, and

C. That your Officer's comments above on the appeal decision be noted

D. That a review of the handling of appeals be undertaken, led by the Portfolio Holder for Planning and Growth and the Chair of the Planning Committee and that it be reported back to a future meeting.

COUNCILLOR ANDREW FEAR
Chair

Meeting concluded at 9.07 pm

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SEABRIDGE COMMUNITY EDUCATION CENTRE, ROE LANE
STAFFORDSHIRE COUNTY COUNCIL

19/00515/OUT

The application is for outline planning permission for the demolition of all existing buildings, former Seabridge Community Education Centre, and the erection of circa 55 dwellings with associated infrastructure, landscaping and open space. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and internal access details) reserved for subsequent approval.

The application site lies within the Urban Area of Newcastle as defined on the Local Development Framework Proposals Map. The site area is approximately 1.9 hectares.

The 13 week period for the determination of this application expires on the 27th September 2019.

RECOMMENDATION

- A) Subject to the applicant (providing they first agree in writing, by noon on 27th September, to extend the statutory determination period to the 25th October) entering into a Section 106 obligation by 18th October 2019 securing the following:**
- i. A management agreement for the long-term maintenance of the open space on the site**
 - ii. A contribution of £144,815.00 (on the basis that the development as built is for the full 55 units and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy), towards the provision of education places at Seabridge Primary School**
 - iii. In perpetuity, provision of 25% of the dwellings on-site as affordable units**

PERMIT subject to conditions concerning the following matters:

- 1. Standard time limits for submission of applications for approval of reserved matters and commencement of development**
 - 2. Reserved matters submissions**
 - 3. Approved plans**
 - 4. Construction hours**
 - 5. Construction environmental management plan**
 - 6. Design measures, supported by a noise assessment, to ensure appropriate noise levels**
 - 7. Electric vehicle charging**
 - 8. Waste storage and collection arrangements**
 - 9. Contaminated land**
 - 10. Tree protection**
 - 11. Reserved matters submission relating to layout and landscaping to include details of all trees to be retained, to be shown on the layout plan, and details of replacement planting**
 - 12. Full details of footway/cycleway link to Roe Lane**
 - 13. Layout of site including disposition of buildings and provision of adequate parking, turning and servicing within the curtilage**
 - 14. Foul and surface water drainage scheme**
 - 15. Any reserved matters application to comply with the Design and Access Statement**
- B) Should the matters referred to in (i), (ii) and (iii) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure the provision of adequately maintained public open space, appropriate provision for required education facilities and an appropriate level of affordable housing; or, if he considers it appropriate, to extend the period of time within which such obligations can be secured.**

Reason for Recommendation

The site is in sustainable location where the broad principle of new and replacement housing is acceptable. The adverse impacts of the development do not outweigh the key benefits of this sustainable development. Accordingly permission should be granted, provided the contributions and affordable housing indicated in the recommendation are secured.

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 so complies with the provisions of the National Planning Policy Framework and no amendments were considered necessary.

Key Issues

The application is for outline planning permission for the demolition of all existing buildings and the erection of circa 55 dwellings with associated infrastructure, landscaping and open space. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and internal access details) reserved for subsequent approval.

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

Concerns have been raised by some residents regarding waterlogging or flooding of gardens to the south of the site. The application is accompanied by a Flood Risk & Drainage Assessment which makes a number of recommendations to ensure flood resilience within the development. Severn Trent Water has raised no objections subject to the imposition of conditions and the comments of Staffs County Council as the Lead Local Flood Authority have been sought and will be reported once received.

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

1. Is the principle of the development acceptable both in terms of the loss of the current use and the location for residential development?
2. Is the design and appearance of the development acceptable?
3. Would the proposed development have any material adverse impact upon highway safety?
4. Would there be any material adverse impact on residential amenity?
5. Would there be any adverse impact on trees?
6. What planning obligations are considered necessary and lawful?

1. Is the principle of the development acceptable both in terms of the loss of the current use and the location for residential development?

The site is occupied by the former Seabridge Community Education Centre which has been disused for some time. Policy C22 of the Local Plan states that in considering applications for development that would involve the loss of an important community facility, the need for the facility and the likelihood of its being able to be replaced will be a material consideration. The various community groups which formerly used the community centre have all re-located to various alternative locations (comprising of various local village and church halls and other facilities). The applicant has stated that the site is redundant with no likely prospect of re-use for its permitted purpose. On this basis it is not considered that this is an important community facility and as such an objection could not be sustained on the grounds of loss of the community facility.

Policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with Policy ASP5 of the Core Spatial Strategy (CSS) setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

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

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

The Council is 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. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land. This site is located in the urban area and it is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and employment opportunities.

The principle of the proposed development complies with local and national planning policy guidance.

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

Paragraph 124 of the Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 127 of the Framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change. Paragraph 130 of the Framework states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.

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

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 R5 goes on to state that "buildings must define the street space with a coherent building line that relates to existing building lines where they form a positive characteristic of the area [and] infill development should generally follow the existing building line". R12 states that residential development should be designed to contribute towards improving the character and quality of the area. Paragraph 124 of the Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

The only matter for approval as part of this application is access. Therefore, layout, scale and appearance are all matters reserved for subsequent approval. An illustrative masterplan has been submitted along with a Design and Access Statement which describes the design rationale and evolution.

Up to 55 dwellings are proposed which would equate to a density of approximately 29 dwellings per hectare. Representations have been received stating that the proposal would be overdevelopment of the site and that the density would not be in keeping with the local area. Immediately adjacent to the site there are relatively large detached houses on Ash Way to the south and on Harrowby Drive to the west, detached bungalows on Roe Lane to the east and a development of flats to the south-west. In the wider area there are smaller semi-detached and terraced houses to the south of Seabridge Lane. There is a mix of dwelling size

and style in the area and therefore it is considered that the number of dwellings indicated could be accommodated within the site satisfactorily and subject to details, would not have any significant adverse impact upon the character and appearance of the area.

The Planning Statement indicates that the properties would comprise a mix of two, three and four-bedroomed, detached, semi-detached and terraced homes, predominantly of two storeys but also incorporating some bungalows. The Indicative layout Plan shows two bungalows to the east of the site adjacent to the bungalows on Roe Lane.

The main principles of the proposed design and layout of the site are outlined in the Design and Access Statement. The content of that document is considered appropriate as a basis for the reserved matters submission and therefore should planning permission be granted, a condition is recommended requiring any subsequent reserved matters applications to be in accordance with the principles of the Design and Access Statement.

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

Vehicular access to the proposed development would be via Ash Way. A footway/cycleway link is also proposed to the north-east of the site connecting to Roe Lane. The link would be capable of accommodating an emergency vehicle and would be controlled through the use of bollards. Off-street car parking for the dwellings would be provided in accordance with the Parking Standards in the Local Plan.

The most up to date planning policy (contained within the Framework) indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In 2015 the Secretary of State gave a statement on maximum parking standards indicating that the Government is keen to ensure that there is adequate parking provision both in new residential developments and around Town Centres and high streets.

Saved Policy T16 of the Newcastle-under-Lyme Local Plan (NLP) states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets. Such a policy is, however, of limited weight as it is not in fully consistent with the Framework given it reference to maximum parking levels. Objections have been received from residents stating that Ash Way is unsuitable as an access to the site.

The application is accompanied by a Transport Assessment which considers the transport impacts associated with the proposed development. Compared with the extant use of the site, the development is predicted to result in minimal increases in trip generation during peak hour periods and a significant reduction in daily trip generation. An assessment of the junction of Ash Way with Seabridge Lane has also been carried out and it is concluded that the junction will continue to operate well within capacity following the addition of development traffic. The Assessment states that the site is well located in terms of access to walking and cycling facilities, with a continuous pedestrian route from the site to the wider pedestrian network, with a further pedestrian/cycle only access proposed at the north-eastern corner of the site, connecting to Roe Lane. There are a number of bus stops within walking distance of the site, with the Seabridge Lane stops providing access to bus routes which operate on a frequent basis throughout the day and provide access to a range of key destinations. It concludes that the Seabridge Centre site represents an appropriate location for residential development, sitting within an existing residential area, with the surrounding transport network being considered suitable to accommodate the proposed redevelopment.

The Highway Authority has no objections to the scheme subject to conditions. It is not considered that the proposal would have any significant adverse impact on highway safety

and it is considered that the proposal complies with Policy T16 of the Local Plan and the aims and objectives of the Framework.

Staffordshire Police's Crime Prevention Design Advisor makes a number of recommendations regarding the footway/cycleway link connecting the site to Roe Lane. The detailed design of the link can be dealt with at the reserved matters stage.

4. Is the impact to neighbouring living conditions acceptable?

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.

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

With respect to the interrelationship of the proposed dwellings with the neighbouring properties, the outline nature of the application requires the decision-maker to anticipate the likely form of development. It is considered that subject to careful control over positioning of windows, sufficient distance can be achieved between dwellings to comply with the Council's Space Around Dwellings SPG.

The Environmental Health Division objects to the proposals stating that there is insufficient information on which to assess the application and its effects on amenity. Your Officer does not consider that the requested information, namely a Construction Environmental Management Plan, a Noise Assessment and information regarding electric vehicle charging, is necessary prior to determination of the application, and therefore subject to the imposition of conditions, it is not considered that an objection could be sustained on the grounds of impact on amenity.

5. Would there be any adverse impact on trees?

There are a number of trees within the site, some of which are well-established whilst others are of low quality. Outside the site there are trees within both adjacent residential gardens and within Seabridge Primary School to the north. The Landscape Development Section states that whilst the loss of some poorer quality trees on this site would be accepted, they would have concerns about the loss of all of the trees on the site.

This is an outline application and therefore the siting of the dwellings is yet to be considered. An Arboricultural Impact Assessment has been submitted based on the indicative layout and that concludes that the loss of some moderate quality trees from within the site is unavoidable. To mitigate for the necessary removals, an appropriate scheme of soft landscaping is recommended, making use of the significant areas of Public Open Space provided within the proposed layout.

Subject to the submission of detailed information at the reserved matters stage, it is not considered that an objection could be sustained on the grounds of impact on the trees.

6. What financial contributions are appropriate (if any) in order to secure planning permission?

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

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

The applicant has confirmed their willingness to agree to the provision of 25% affordable

housing and the making of a financial contribution towards education provision. Such obligations are considered to be lawful and to meet the above tests. Public open space is to be provided within the site and therefore no contribution to off-site provision is required. The open space should be maintained by a management company which can also be secured by a 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 SP3	Spatial principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open space, sport, recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

Policy H1	Residential development: sustainable location and protection of the countryside
Policy N12	Development and the Protection of Trees
Policy T16	Development – General parking requirements
Policy T18	Development servicing requirements
Policy C4	Open Space in New Housing Areas
Policy C22	Protection of Community Facilities
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations

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

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

Supplementary Planning Documents/Guidance

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

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

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

[Affordable Housing SPD](#) (2009)

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

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

[Staffordshire County Council Education Planning Obligations Policy](#)

Planning History

None relevant

Views of Consultees

The **Environmental Health Division** objects on the grounds that there is insufficient information on which to assess the application and its effects on amenity. A Construction Environmental Management Plan, a Noise Assessment and information regarding electric vehicle charging is required. Contaminated land conditions are recommended.

The **Highway Authority** has no objections to the proposal subject to the imposition of conditions regarding submission of details of layout, parking, turning and servicing, surface water drainage and surfacing materials, submission of details of a footway/cycleway link to Roe Lane and submission of a Construction Management Plan.

The **Waste Management Section** is concerned about the nature of the road surface in the site entrance which must be adopted at highway standard. Swept path information for 26 tonne freighters is required. The loop-based design of the indicative layout designs out the need to reverse but there are concerns about the nature of the surfacing suggested for the central road. Each property will need to accommodate 3 wheelie bins and a 21ltr food caddy.

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

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

The **Landscape Development Section** states that whilst the loss of some poorer quality trees would be accepted, there would be concern about the loss of all the trees. Under the terms of the Open Space Strategy a proposal for 55 dwellings would require a LAP (Local Area for Play), and a LEAP (Local Equipped Area for Play) facility and a contribution to a Multi-Use Game Area. There are some options for the developer concerning how this contribution can be met:

- The developer could provide a LAP and LEAP onsite.
- Due to the proximity of the existing LAP at Bluebell Drive, the Borough Council would consider that the developer could allow for improvements to this area (appropriate proportional sum to be agreed) instead of creating a new LAP. In which case the developer could provide a single new LEAP on site (and contribution to a MUGA for Roe Lane)
- Should the developer wish to provide a contribution for offsite facilities then would suggest that improvements to Roe Lane (improvement to surfacing floodlighting etc on playing pitches) and Rydal Way would be appropriate. Should the developer wish to provide such an offsite contribution, a S106 contribution by the developer is requested for capital development/improvement of off-site open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £5,579 per dwelling.

The **Education Authority** states that the development falls within the catchments of Seabridge Primary School and Clayton Hall Academy. 11 primary school places and 6 secondary places would be required. There are projected to be an insufficient number of school places to mitigate the impact of the development at the primary phase of education however there are projected to be a sufficient level of places at secondary level. A primary school education contribution of £144,815.00 is required (£13,165 x 11 places).

The **Crime Prevention Design Advisor** states that the use of the site for housing could be beneficial for the school by providing opportunities for social policing over the site outside of school hours thus reducing opportunities for criminal or anti-social behaviour. The illustrative layout plan seems reasonable with some positive crime prevention elements incorporated including natural surveillance. The layout is misleading in that the old school access gates/fencing off Roe Lane are shown rather than the new fencing/gating that now exists set further into the site. The proposed pedestrian link would meet the access road just outside the school gating. With the layout as it is there is potential for the security of the school perimeter to be compromised at the point between the pedestrian link and plot 34. It is recommended therefore that a suitable hedge is planted and maintained at 1.8m on the inside of the fence to provide a defensive buffer and deny access to the fence line. Although indicative, the open nature of the area where the pedestrian link meets the school access road could be abused by the likes of motorbikes. Consideration may wish to be given to narrowing the linkage incorporating some form of motorbike barrier coupled with some suitable planting to the side.

Care would be needed to ensure that any motorbike barrier did not provide an external stepping point to overcome the school fencing/gating. The central portion of the site where certain properties do not have any on-plot parking, could prove inconvenient for them and result in residents parking in front of their houses anyway, which could be rather problematic. The design of the layout should pay particular attention to crime prevention and community safety issues. In the light of this, any reserved matters application that subsequently comes forward should clearly explain within the Design and Access Statement and demonstrate in the site layout how crime prevention and community safety measures have been considered in the design of the proposal.

Representations

A petition of 65 signatories has been received along with 26 letters of representation including one from Paul Farrelly MP, objecting on the following grounds:

- The applicant has shown a neglectful, presumptive and blinkered approach that totally disregards the nature of the existing Seabridge Park (Ash Way and Bluebell Drive) development and the site.
- The agents have disregarded the majority of responses from the consultation event.
- The planning site notice is unclear and inadequately sited.
- When Seabridge Park was proposed, it was stipulated that if more than 50 houses were to be built then a major access road was necessary.
- Signage at the entrance to Ash Way specifies no access to Seabridge Primary School reinforcing the fact that Seabridge Park was never designed for traffic other than to service the educational buildings on the application site.
- Ash Way would have to serve an additional 55 homes and the development would also create a through route for traffic to drop off and use the walkway to the school.
- Ash Way is not suitable for Heavy Goods Vehicles and will cause unacceptable safety issues.
- The Council must be consistent in its approach and the developments off Gateway Avenue, Baldwin's Gate, and The Hawthorns, Keele, are referred to which both have restrictions on construction traffic. The Meadow Way, Baldwin's Gate development was refused and this site is unsuitable for similar reasons.
- Seabridge Park comprises a desirable 50 home executive development of 4 and 5 bedroom properties commanding premium house prices. Residents are entitled to enjoy their quality of home life without the unacceptable intrusion and other serious consequences caused by access, demolition, construction and the downgrading of the area through introduction of lesser property types and social housing.
- The proposal would have an adverse and substantial impact on the appearance of Seabridge Park.
- Loss of privacy and environment
- Trying to impose an inferior development which is totally unacceptable and out of keeping with Seabridge Park.
- Downgrading of the area
- Social housing is incompatible with the expectations the existing residents are entitled to
- At least 20% of the residences are home to doctors/consultants and surgeons who object to the proposal and it would not be acceptable to risk losing them to other areas.
- Overdevelopment. Density not in keeping with the local area.
- Insufficient parking
- Changing the nature of the site will alter the flow of water through and off the site. The natural flow is towards Ash Way.
- The proposed pond is an unacceptable safety hazard, will be susceptible to flooding and will attract vermin, disease, smells and anti-social behaviour.
- In 1996 as part of the proposals for Seabridge Park, a Tree Preservation Order was put on the trees. The trees on the application site are of the same age and quality. The proposed layout shows no evidence of retention of the trees and there are a

number of established mature trees in gardens bordering the site which could be damaged.

- The site is a habitat for foxes, bats and diverse species of birds. Felling the trees would erode habitat.
- Both local primary schools are oversubscribed
- Before closing this valuable community building, the County Council should have consulted with residents and users. If not to be retained as a community facility, then it should be restored to the purpose it was built for – education.
- Traffic related air pollution and noise
- Devaluation of properties

Applicant/agent's submission

These documents can be viewed on <https://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00515/OUT>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

27th August 2019

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Seabridge Community Education Centre Roe Lane, ST5 3UB



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THE BARN, BARTHOMLEY ROAD, AUDLEY
MR & MRS McCREADY

19/00448/FUL & 19/00646/DOB

A. Application 19/00448/FUL seeks to remove condition of condition 4 of planning permission 11/00251/FUL for the conversion of existing outbuildings into one dwelling, to be occupied as an annexe to the main dwelling, and alterations and additions to form first floor accommodation. Condition 4 restricts the occupancy of the dwelling to purposes ancillary to the main dwelling, Tara.

The site lies within an area of open countryside within the Green Belt and within an Area of Landscape Enhancement.

The 8 week period for the determination of this application expired on the 27th July 2019. An extension of time to the 12th September has been agreed by the applicant.

B. Application 19/00646/DOB is to discharge a planning obligation made under Section 106 relating to a previous planning permission 04/00189/COU which dealt with the conversion of a redundant farm building into self-catering holiday lets. The purpose of the obligation is to prevent the severance of the building from the remainder of the buildings and land within the agricultural holding.

RECOMMENDATION

- A. PERMIT 19/00347/OUT - no conditions**
- B. That the application to discharge the S106 agreement, 19/00646/DOB be approved.**

Reason for Recommendation

Whilst the dwelling is not in the best location for new housing by virtue of the occupants having a reliance on private motor vehicles to access day to day services and amenities. The number of trips which would be generated by this dwelling is, however, likely to be modest and will not be significantly greater than its current occupation for purposes ancillary to Tara. The proposal would make a contribution of one additional dwelling to the housing stock. Whilst therefore very modest a contribution, it would nonetheless represent a net benefit which, it is considered, would outweigh the very limited harm that has been identified. As such the restrictions on occupation imposed by condition 4 of planning permission 11/00251/FUL should be removed.

Should the conclusions set out above be accepted and condition 4 removed, the S106 obligation would be rendered obsolete.

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

Overall this is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework and no amendments were considered necessary.

Key Issues

The planning application seeks the removal of condition 4 of planning permission 11/00251/FUL for the conversion of existing outbuildings into one dwelling, to be occupied as an annexe to the main dwelling Tara, and associated alterations and additions to form first floor accommodation. Condition 4 restricts the occupancy of the dwelling to purposes ancillary to Tara.

An associated application, under Section 106A of the Town and Country Planning Act 1990, seeks to discharge the planning obligations entered into on the 23rd October 2012 prior to the grant of 11/00251/FUL. The completed obligation prevented the permitted annexe:

- To be used or occupied other than as an integral part of Tara,
- Used or occupied by persons who are not immediate members of the family of the owners of Tara,

In addition it prevented the annexe being sold, leased or otherwise transferred or disposed of except as part of the property, Tara.

The site lies within an area of open countryside within the Green Belt and within an Area of Landscape Enhancement.

The proposal would not involve a material change of use of the building as it will remain a dwelling, nor does it involve any alterations or extensions. The question as to whether the proposal constitutes appropriate or inappropriate development within the Green Belt is not raised in the consideration of the application therefore.

Whilst the occupation of the dwelling independently of Tara could generate additional vehicular movements such additional movements would be minimal in number. As such it is considered that the proposed removal of condition would not raise highway safety concerns.

The key issues that the proposal raises, therefore, are:

- whether this is suitable location for a dwelling
- residential amenity
- 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?
- whether the Section 106 should be removed or altered.

Does the proposal comply with policies on the location for a new dwelling?

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

Saved Newcastle Local Plan (NLP) policy H1 supports new housing within village envelopes. ASP6 of the Core Spatial Strategy (CSS) advises that, by 2026, there will be a maximum of 900 net additional dwellings of high design quality located primarily on sustainable brownfield land within the village envelopes of key rural service centres.

The National Planning Policy Framework (the Framework) seeks to support the Government's objective of significantly boosting the supply of homes. It also sets out that there is a presumption in favour of sustainable development.

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

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

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

(Para 11(d))

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

The application site is close to a ribbon of residential development on Barthomley Road, approximately 800m outside of the village envelope of Audley. Given this, it is possible that the services provided within the village could be accessed on cycle or foot. It is, however, likely that majority of trips will be undertaken by car particularly when it is noted that the first 250m of the route, along Barthomley Road, has no pavement or street lighting. This, however, does not lead to the conclusion that this is an unsuitable location for a dwelling particularly in light of the appeal decision in respect of application reference 17/00358/OUT at the Waggon and Horses Public House, Nantwich Road, Audley. In that case the Inspector considered that future residents were unlikely to walk or even cycle to services and facilities in Audley on a day to day footing. The Inspector went on to state that whilst the Framework promotes the use of sustainable transport modes together with minimising the need to travel and reduce journeys by car, paragraph 84 recognises that rural sites may have to be found beyond existing settlements and in locations not well-served by public transport. In the Inspector's opinion the Waggon and Horses site was one such rural site. The same could be said for this application site which is located much closer to the village of Audley.

It is, important to note the Planning Inspector's conclusions in a number of recent appeal decisions in respect of housing developments beyond village envelopes. In such appeals only limited weight has been given to NLP Policy H1 and CSS ASP6 in as far as they define the village envelopes (Policy H1 and ASP6) and limit the number of additional dwellings in key rural service centres (Policy ASP6). Such Inspectors have further concluded that paragraph 11(d) of the Framework is engaged. This conclusion applies in this case given that the site is outside of any defined village envelope and the application of policies in the Framework that protect areas or assets of particular importance does not provide a clear reason for refusing the proposal.

As such planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole. This is addressed below.

Residential amenity

The NPPF states, within paragraph 127, that planning decisions should ensure that developments, amongst other things, create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

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

The Barn is located to the side, and slightly to the rear, of Tara. There are side facing windows in Tara, which overlook the Barn but such windows look onto the side elevation and front garden area of that property and as such would not result in an unacceptable level of privacy for the occupiers of the Barn. In addition, there are two windows at ground floor in the side elevation of the Barn and one at first floor. The ground floor windows, which are not principal windows, would result in a limited amount of overlooking. The first floor window is a principal window and has a view over the rear garden of Tara with a separation distance below that which is recommended in the SPG. Whilst this is not ideal as it gives rise to some overlooking and loss of privacy, this relationship was considered to be acceptable when permission was granted for its conversion to a dwelling for occupation in association with Tara. It would now be difficult to argue that this relationship would be unacceptable even in circumstances, as proposed, where the Barn is occupied independently. Anyone purchasing either property in the future would be doing so in the knowledge of this window and the impact it has on privacy.

The access to the Barn is shared with the access to Tara and the occupation of the Barn independently of Tara would result in vehicular movements along its frontage at a distance of approximately 6.7m from its front elevation. Bearing in mind this separation distance and the limited vehicular movements arising from one property it is not considered that the disturbance associated with the

In consideration of the siting and relationship between the Barn and Tara, and the amount of land around each property it is concluded that appropriate living conditions would be provided even in circumstances where they are occupied independently.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

The NPPF refers to three objectives of sustainable development – economic, social and environmental. It also seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of local communities.

As indicated above, the dwelling is not in the best location for new housing by virtue of the occupants having a reliance on private motor vehicles to access day to day services and amenities. The number of trips which would be generated by this dwelling is, however, likely to be modest and will not be significantly greater than its current occupation for purposes ancillary to Tara. The proposal would make a contribution of one additional dwelling to the housing stock. Whilst therefore very modest a contribution, it would nonetheless represent a net benefit which, it is considered, would outweigh the very limited harm that has been identified.

Should the Section 106 be removed or altered?

Section 106A of the 1990 Town and Country Planning Act indicates that the obligation can be discharged if it serves no useful purpose. Should the conclusions set out above be accepted and the condition requiring occupation of the Barn independently from Tara being removed, the S106 obligation would be rendered obsolete. The application to remove the obligation should therefore be agreed.

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

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

Policy S3: Development in the Green Belt
Policy H1: Residential Development – Sustainable Location & Protection of the Countryside

Other Material Considerations

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

Supplementary Planning Documents/Guidance

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

Planning History

10/00512/FUL	Conversion of existing outbuildings into one dwelling, to be occupied as an annexe to the main dwelling, and alterations and additions to form first floor accommodation	Refused.
11/00251/FUL	Conversion of existing outbuildings into one dwelling, to be occupied as an annexe to the main dwelling, and alterations and additions to form first floor accommodation	Permitted
17/00780/FUL	First floor extension	Permitted

Views of Consultees

Audley Parish Council – Support the application.

Representations

None

Applicant/agent's submission

The application documents are available for inspection via the following link
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00448/FUL>

Background Papers

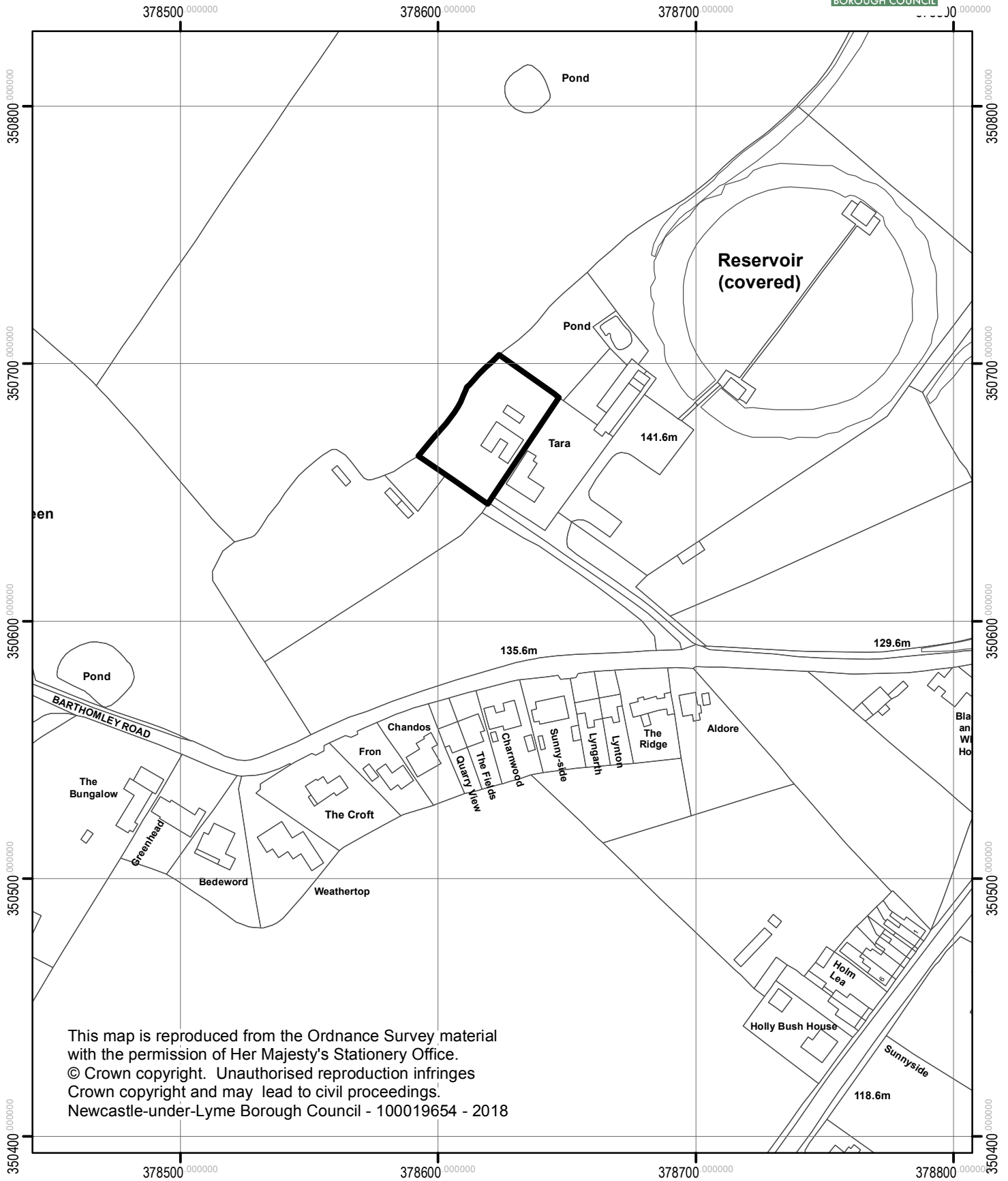
Planning File.
Planning Documents referred to.

Date Report Prepared

29th August 2019.

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The Barn, Barthomley Road
Audley, ST7 8HU



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SMITHY COTTAGES, SMITHY CORNER, BAR HILL, MADELEY
MR L CLARKE

19/00552/FUL

The application seeks planning permission for the erection of two detached dwellings and a detached double garage (providing a garage space for each dwelling) on land which currently forms part of the residential curtilage of Smithy Cottages. A detached double garage to serve the existing dwelling is also proposed.

The application site lies within the Conservation Area of Madeley, as defined by the Local Development Framework Proposals Map. The site adjoins Ye Olde House, a Grade II Listed Building.

The application has been called in to Committee by two Councillors on the grounds that the proposal is overdevelopment and inappropriate development in a Conservation Area.

The statutory 8 week determination period for the application expires on 10th September 2019.

RECOMMENDATION

PERMIT subject to the following conditions;

- 1. Time limit**
- 2. Approved plans**
- 3. Provision of access, parking and turning prior to use of development**
- 4. Provision of visibility splays in accordance with plans prior to use**
- 5. Retention of the garages for parking of vehicles and cycles**
- 6. Gates to be located a minimum of 5 metres back from highway boundary**
- 7. Provision of a surface water drainage interceptor across the access immediately to the rear of the highway boundary.**
- 8. Tree and hedgerow protection.**
- 9. Schedule of works to retained trees**
- 10. Alignment of utility apparatus**
- 11. Ground protection of Root Protection Areas during construction works**
- 12. Landscaping proposals in accordance with submitted plans.**
- 13. Prior approval of facing and roofing materials, and hard surfacing materials which shall have a more informal appearance (not tarmac)**
- 14. Prior approval of finished floor levels**
- 15. Reporting of unexpected contamination**
- 16. Removal of Permitted Development Rights for porches, roof lights on the front elevation and out buildings.**
- 17. Hours of construction**
- 18. Electric vehicle charging points**

Reason for recommendation

An extant planning permission exists on this site for two dwellings. The principle of residential development, within the village envelope of Madeley, has been established therefore and remains acceptable. The proposed development as now amended would not harm the character of the Conservation Area, and would not harm the setting of the adjacent Grade II Listed Building. The development would be acceptable in terms of access and highway safety, and would retain a good level of mature landscaping (trees and hedgerows) to retain the landscape character of the plot. The development would therefore comply with local and national policies and guidance.

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

Amendments were requested and received during the course of the application and this 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 two detached dwellings and two detached garages, one to serve the proposed dwellings the other to serve Smithy Cottages, within the garden area of Smithy Cottages. The site is within the village envelope and Conservation Area of Madeley, as indicated on the Local Development Framework Proposals Map. There is a Grade II Listed Building – Ye Olde House – adjacent to the site to the west of the site.

The application follows the granting of planning permission, on appeal, for two dwellings and a detached double garage serving Smithy Cottages on the same plot under reference 16/00226/FUL. The permission remains extant. The development of the site for two dwellings has therefore been established and as such it must be concluded that the principle of residential on this site is acceptable.

The dwellings proposed within this application have four bedrooms as do the dwellings already permitted on this site. In addition the proposed access is that already approved under 16/00226/FUL. Given that the proposal does not involve a material intensification of the use of that access and in light of the Highway Authority not raising objections to the proposal it is considered that the current application does not raise highway safety concerns.

The siting and scale of the proposed dwellings are very similar to the approved development and as such the relationship with the adjoining dwellings is also very similar. As such there is no requirement to reconsider the issue of residential amenity.

The key issues in the determination of the application are therefore considered to be:

- The impact of the development on the character and appearance of the area and Conservation Area and the adjoining Listed Building
- The impact of the development on trees and hedgerows

The impact of the development on the character and appearance of the area and Conservation Area

When making a decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. In addition where a planning application affects a Conservation Area a Local Planning Authority must pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

Saved Policy B5 of the Newcastle Local Plan (NLP) states that the Council will resist development that would adversely affect the setting of a listed building. 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.

The NPPF, at paragraph 192, 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.

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.

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 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
- 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

Paragraph 196 of the NPPF 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.

The two dwellings as now proposed in the current application, following amendments to the dwelling on plot 2, have the same overall maximum height as the dwellings already permitted and have a similar, albeit slightly smaller, footprint. Their external appearance is also very similar to that of the approved dwellings with the key differences being:

- the omission of an integral garage, consequent loss of garage door and replacement with a front door and small window with canopy.
- Introduction of a bay window at ground floor of the projecting gable.

Bay windows are not a typically feature of the dwellings within the Conservation Area but are incorporated in some of the more modern dwellings within the wider village. Overall it is considered that such amendments do not fundamentally change the design and appearance of the dwellings when compared to the permitted development and would not be harmful to the character and appearance of the Conservation Area. In this regard it is noted that neither the Conservation Officer (CO) nor the Conservation Advisory Working Party (CAWP) object to the appearance of the dwellings.

The development already permitted on this site includes a double garage for Smithy Cottages. The current application retains that garage, with no amendment to its design or position, and introduces a second double garage to serve the proposed dwellings which is to be sited close to the boundary with the adjoining listed building, Ye Olde House. The siting of the second double garage would result in the removal of two category C trees and vegetation that were to be retained. However more visually significant trees that are closer to the highway, and public obscure views of the trees to be lost, would be retained and in light of this no objections are raised to such loss. The CO and CAWP have not raised any objections to the introduction of a second garage considering that this in itself is unlikely to cause harm to the setting of the Listed Building or to the Conservation Area.

The CO and CAWP have, however, raised concerns about the repositioning of the dwellings from that approved. The site layout as initially submitted show the dwellings in line with each other, thereby not achieving the staggered layout as approved. They have also raised concerns about the increase in the amount of hard surfacing, considering that the development now has more of a suburban cul-de-sac appearance. In response to such concerns amended plans have been submitted which relocates the dwelling on plot 2 further back into the site, in a similar position to that approved, and removes some of the hard surfacing between the garages to Smithy Cottages and the driveway on plot 2 thereby creating a more significant area where landscaping can take place. The amount of additional

hard surfacing as now proposed is therefore only marginally greater than that within the approved scheme.

Permitted development rights relating to alterations to the roof of the dwellinghouses (Class C) and porches (Class D) were removed by condition planning permission granted on appeal in the interests of the character and appearance of the Conservation Area. It is noted that permitted development rights for the introduction of outbuildings (Class E), which would include garages, were not also removed by the Planning Inspector at that time. It is, however, considered that removal of Class E permitted development rights is now justified to ensure that the Local Planning Authority has control over the construction of further buildings within the site

The Planning Inspector when granting planning permission 16/00226/FUL considered that the significant setback position of the dwellings from the road frontage and the trees and planting throughout the site would ensure that they are not prominent in the street scene. In addition he acknowledged that there would be public views of the dwellings throughout the Conservation Area, including but such views would only be glimpsed behind the more prominent neighbouring properties and existing vegetation. The same could be said for the current proposal, as now amended.

In respect of the current proposal, there are no objections to the amended appearance of the dwellings or to the introduction of the second double garage, and consequent loss of trees and vegetation, and the amended site plan shows the siting of the dwellings and the extent of hard surfacing is very similar to the approved development on this site. It is considered that subject to conditions that were imposed by the Inspector which included the requirement for the approval of materials and the removal of permitted development rights for front porches and rooflights, and that the driveways are surfaced in a more informal manner, and not tarmacked as proposed, that the proposed development as amended would preserve the character and appearance of the Conservation Area.

Overall, the proposed development is considered to achieve a good design and appearance in this part of the Madeley Conservation Area and would not be harmful to the setting of the adjoining listed building and as such would be in accordance with local and national policy.

The impact of the development on trees and hedgerows

There are several trees on and around the site, which contribute to the site's green character. Saved policy N12 of the NLP 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.

The Landscape Development Section has no objections to the proposed development, which as mentioned above, includes the loss of two trees to accommodate the second garage. They suggest that the boundary hedgerows are retained and protected throughout this development, and request planning conditions relating to tree and hedge protection to retained trees and hedgerows to BS5837:2012 throughout all demolition, construction and earthworks (drainage), prior approval of an Arboricultural Method Statement, and prior approval of landscaping proposals to include gapping up boundary hedgerows and replacement tree planting. Such conditions were imposed on the planning permission granted on appeal and remain appropriate for any planning permission issued in respect of the current application.

Reference is made within representations to the loss of further planting to accommodate the required access visibility splays. Such splays were, however, a requirement of the development already permitted on this site and as such the Planning Inspector took this into account when allowing the appeal. This cannot be said, therefore, to result in additional visual impact that was not previously taken into consideration and there is no basis to now conclude that the provision of the visibility splays and any consequent cutting back of vegetation is visually unacceptable.

Overall, the proposed development is considered to have an acceptable impact upon trees and hedgerows, provided conditions are included to ensure the retained trees and hedgerows are adequately protected during the construction phase.

APPENDIX

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

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

Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP2: Historic Environment
Policy CSP3: Sustainability and Climate Change

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

Policy H1: Residential Development: Sustainable location and protection of the Countryside
Policy T16: Development: General parking requirements
Policy N12: Development and the protection of trees
Policy N13: Felling and pruning of trees
Policy B5: Control of development affecting the setting 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.
Policy B13: Design and Development in Conservation Areas
Policy B15: Trees and Landscape in Conservation Areas

Other material considerations include:

National Planning Policy

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

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

Supplementary Planning Guidance/Documents

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

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

Relevant Planning History

16/00226/FUL Residential development consisting of 2 no. detached dwellings together with proposed detached dwelling. REFUSED and subsequently ALLOWED on appeal.

Views of Consultees

Madeley Parish Council objected to a similar application 16/00226/FUL which was granted on appeal. They believe the proposed development would be an over development of the site that would cause harm to the character and appearance of the Conservation Area. The Parish Council could see how on detached dwelling and garage would be appropriate. However, two detached four-bedroomed houses, two detached garages was far too much development for a site of this size. The application stated the spaces for cars would be increased from zero to ten. Once more this is excessive and does not appear to have an environmentally friendly approach. The Parish Council also questioned the safety of the vehicles accessing the A525 at an already busy junction, likely to be further aggravated if the HS2 project goes forward.

The **Conservation Officer** advises the revisions to this scheme have been considered and didn't object to in 2016. The scheme was for 2 relatively modest detached houses with integral garages and a double garage to serve Smithy Cottage. The houses are now shown as larger 4 bed properties

with a separate shared double garage to the west of the site adjacent to the outbuilding of Ye Olde House. This in itself is unlikely to cause harm to the setting of the Listed Building or to the Conservation Area but there are a series of resulting elements which may begin to alter the character of the site to the detriment of this semi-rural character of the Conservation Area.

There is now additional hardstanding and the centre of the site is now built on rather than landscaped. It has the appearance of a suburban cul-de-sac and this is not what this backland site should look like. This is exacerbated now that the houses appear more regimented with no set back. The building line should be staggered creating a more organic and vernacular approach to the evolution of the village when the buildings are glimpsed from outside the site.

A revised roof tile is recommended as the size doesn't reflect the character of the village and there are no details for the garage doors.

Conditions attached to the permission in the appeal statement should be attached to any further permission including the removal of certain permitted development rights including consideration of the creation of additional hardstanding.

The **Landscape Development Section** has no objections and suggests conditions relating to the following:

- Tree and hedgerow protection.
- Schedule of works to retained trees
- Alignment of utility apparatus
- Ground protection of Root Protection Areas during construction works
- Landscaping proposals in accordance with submitted plans.

The **Environmental Health Division** recommends the imposition of conditions relating to reporting of unexpected contamination, hours of construction and electric vehicle charging.

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

- Provision of access, parking and turning areas prior to first use and retention thereafter
- Provision of visibility splays
- Retention of the garages for the parking of vehicles
- Any gates a minimum of 5m rear of the highway boundary.
- Provision of a surface water

completion of the access, parking and turning areas prior to use of the development; provision of visibility splays prior to use; surfacing of the driveway in a bound material for 5 metres back from the highway edge prior to use; and retention of the garage for the parking of motor vehicles and cycles.

The **Conservation Advisory Working Party** considered this scheme against the previous scheme and whilst they thought that the previous scheme preserved the character and appearance of the Conservation Area and the setting of the adjacent Listed Building, they have concerns with the current proposal which appears to be driven by economics to the detriment of the character of the plot. The additional garage block is not particularly invasive in itself but it means that there is now less green space and additional hardstanding with turning areas and more parking. The two houses have lost their staggered frontages (and rears) and now appear more regimented and suburban. The asymmetry of the houses in the previous scheme is more picturesque and appropriate for this part of Madeley village. The visible elements of this scheme are important to get right so the roof materials should be appropriate and the garages should have timber doors and overall the scheme needs more landscaping to ensure the semi-rural character of the plot remains. The current proposal is more detrimental to the setting of the Listed Building and Madeley Conservation Area.

United Utilities have no objections to the proposal and request no conditions on any approval.

Cadent request that an informative note is included in the decision recommendation consideration is given to gas pipeline/s identified on the site.

Representations

Five representations have been received, one of which is from Madeley Conservation Group. The concerns expressed are summarised below:

- The height of the new development would overshadow and dominate the surrounding properties, some of which are listed and of historic interest. The development is not sympathetic to its surroundings and would be harmful to the Conservation Area.
- Extra garages mean more cars, congestions and difficulties getting out onto the main road causing danger.
- The proposed additional garage is 10m from the listed Ye Olde House and to the main window housing one of the historic stained glass windows pledging allegiance to King Henry VIII.
- The amended scheme does not accord with the strict guidelines attached to the appeal which sought to protect the site from additional buildings.
- The level that the garage is to be constructed on is approximately 1m higher than the drive of Ye Olde House giving the appearance of a towering 6.5m ridge in the context of the garage to Ye Olde House which stands at 4.2m to the ridge.
- Screen planting would be removed to accommodate the garage. The visibility splay to the access will eventually require removal of other trees that act as a screen.
- The properties now include a bay window which is not a feature present in any of the surrounding properties resulting in them having a suburban appearance out of character with the surroundings.
- The site is cramped and the proposed dwellings are very close to the boundary.

Applicant/agent's submission

The application is accompanied by:

- A Design and Access Statement
- A Heritage Statement
- Speed Survey
- Tree survey and Arboricultural Impact Assessment
- Phase 1 Geotechnical Desk Study
- Materials schedule and technical specification

All of the application documents are available for inspection at Castle House and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00552/FUL>

Background Papers

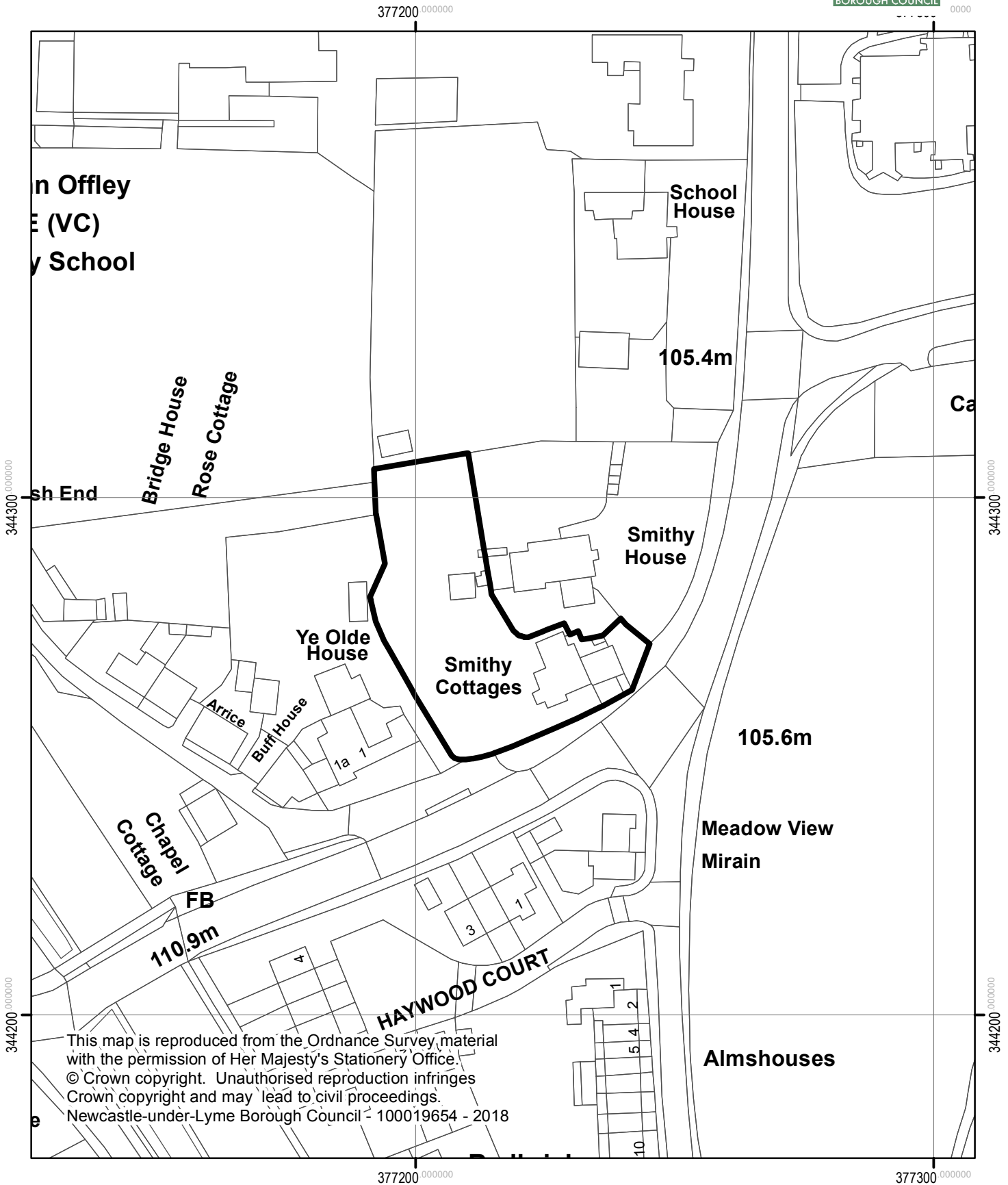
Planning File
Development Plan

Date report prepared

29th August 2019

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Smithy Cottages, Smithy Corner
Bar Hill, Madeley



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 Newcastle-under-Lyme Borough Council - 100019654 - 2018

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Planning Committee 10th September 2019

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

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

The last report was brought to the Planning Committee at its meeting on the 21st May 2019. 4 cases are reported upon. Details of all the cases, the progress made within the last Quarter, and the targets for the next Quarter are contained within the attached Appendix.

RECOMMENDATION

That the information be received.

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Residential Development on site of the Former Silverdale Colliery</p> <p>Non-compliance with condition B8 of outline planning permission 06/00337/OUT which requires the provision of 2 Locally Equipped Areas for Play (LEAPs) and 1 Neighbourhood Equipped Area for Play (NEAP) as integral parts of the development</p>	25.04.17	<p>Following refusal of a planning permission to vary a condition of the permission which would have removed the requirement to provide a second Locally Equipped Area for Play (LEAP) on this development, Committee resolved that Legal Services be authorised to issue enforcement to secure, within six months, the provision of a second LEAP as required by condition.</p> <p>Details of a revised play area were subsequently received which Landscape Development Services advised were acceptable. Information regarding when the play area would be installed was provided and works were undertaken in the first week of October 2018.</p> <p>Consideration was given to the provision of a NEAP (Neighbourhood...) during which it became apparent that there are different views as to what has or has not been approved. The developer's position is that details of the NEAP as provided on site were submitted and approved within the reserved matters application Following consideration of the reasonableness of the Council taking a different line to the developer, the considerable time that has elapsed after the provision of that play area, and the nature of the documentation relating to the permissions in place it was decided, under the delegated authority provided by the resolution of the Planning Committee of the 24th April 2017, that it would not be expedient to take enforcement action in relation to any breach of planning control in relation to the NEAP.</p> <p>A site visit was undertaken some time and all the approved equipment has been provided within the second LEAP. It has, however, been established that benches shown on the approved plans have not been installed. It was indicated in the previous report that the developer would be contacted to secure installation of benches and to request information in respect of post installation inspections, however this did not happen.</p>	<p>Contact developer to secure installation of benches and request information in respect of post installation inspections.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>5 Boggs Cottages, Keele Road, Keele</p> <p>Initially regarding unauthorised use of land for the siting of a mobile home.</p> <p>Now non-compliance with the occupancy condition attached to the mobile home</p> <p>14/00036/207C3</p>	<p>5.1.16 & 11.10.18</p>	<p>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.</p> <p>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.</p> <p>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”. Subsequent visits to the site established that the Notice had not been complied with.</p> <p>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 and it was later established that the mobile home was being occupied. The breach of planning control referred to in the EN was no longer taking place therefore.</p> <p>A further EN was served on 9th November 2018 regarding the occupation of the mobile home in breach of condition 1 of planning permission N21248.</p> <p>An appeal has been lodged and confirmation received that it is valid. It remains the case, however, that ‘start letter’ has not, as yet, been issued and as such the appeal timetable has not been set out.</p>	<p>Await the appeal ‘start letter’ and when received adhere to the appeal timetable.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>and at Doddlespool and Elms Farm, Off Waybutt Lane, Betley</p> <p>Breach of condition 3 of planning permission 14/00610/FUL.</p> <p>18/00251/207C2</p>	<p>7.11.18</p>	<p>Planning application 14/00610/FUL, for the retention of water reservoir, formation of hardstandings and repairs to the existing track was permitted on the 3rd December 2014 with 13 conditions. Condition 3 required all activity associated with the engineering works, including the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas to cease by 1st June 2015.</p> <p>A subsequent application was permitted (reference 15/00521/FUL) extending the period set within the condition a further nine months from the decision.</p> <p>In September 2018 complaints were received that soil was being removed from the site in breach of the condition. Following correspondence from the Council that activity ceased, however further allegations were then received on 2nd November.</p> <p>Whilst the removal of the soil has been infrequent such operations and activities at the site are still resulting in a significant and detrimental harm to the residential and there was reason to consider that the breach could happen again. As such it was resolved to take enforcement action.</p> <p>An Enforcement Notice (EN) was served on 22nd November requiring the cessation of the removal of soil seven days after the notice took effect. An appeal has been lodged and as such the EN hasn't taken affect. As yet confirmation has not been received that the appeal is valid.</p>	<p>Await the appeal 'start letter' and when received adhere to the appeal timetable.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
Barn 2, Moss House Farm, Eardleyend Road, Bignall End	18.6.19	<p>Full planning permission was granted at appeal for the conversion of the barn to two residential market housing units (Ref. 13/00755/FUL). An application was subsequently submitted in 2017 to retain alterations to the approved scheme (Ref. 17/00326/FUL) but it was evident that a substantial proportion of the building had been demolished and rebuilt. Such extensive rebuilding was considered to amount to a replacement building and therefore that application was refused on the grounds that planning permission for the retention of buildings to form two dwellings the development comprised inappropriate development within the Green Belt and very special circumstances did not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. An appeal against the Council's decision was subsequently dismissed with the Inspector also considering the development to comprise inappropriate development in the Green Belt.</p> <p>A subsequent application for the retention and alteration of the buildings to form two dwellings was refused by Planning Committee on 18th June 2019 on the grounds that it represented inappropriate development in the Green Belt and there were no very special circumstances that justified the granting of planning permission.</p> <p>On 18th June Committee also resolved that the Council's solicitor be authorised to issue enforcement action and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure removal of the building within 12 months.</p>	Instructions sent to Legal and enforcement notice issued.

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Report on Open Enforcement Cases

Purpose of the Report

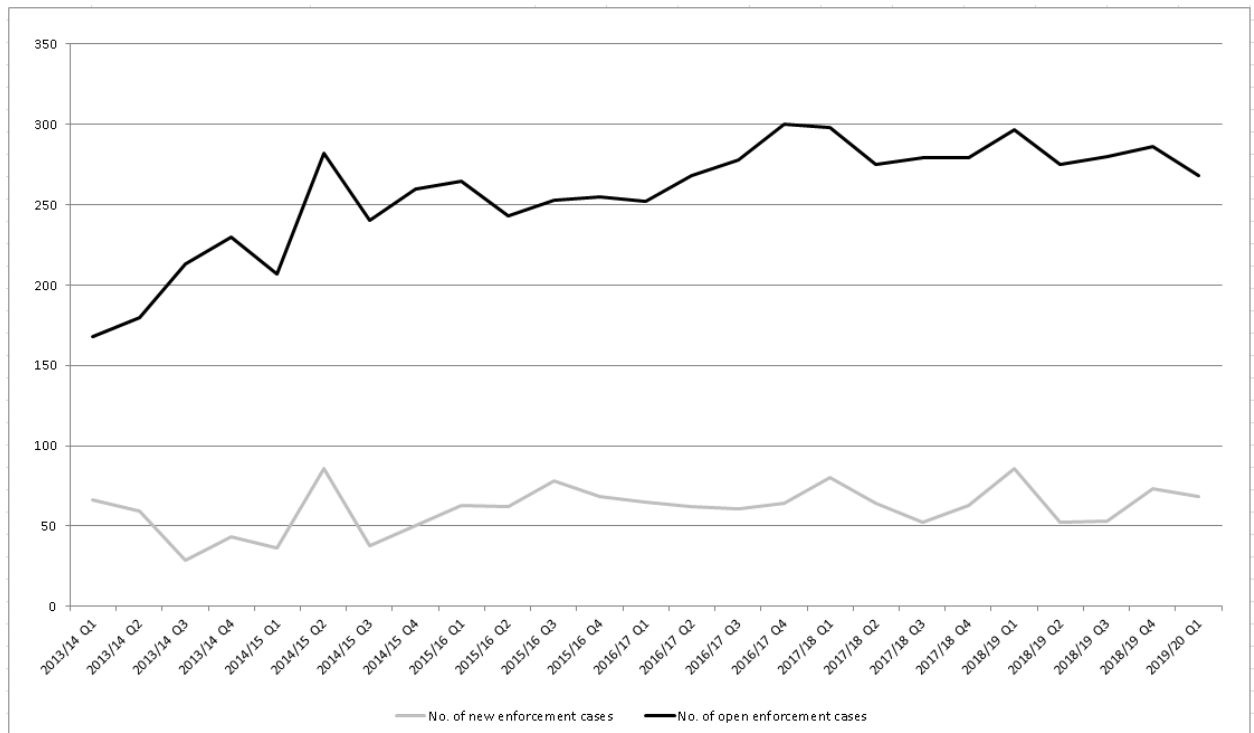
To inform members of the current situation regarding the enforcement caseload.

Recommendations

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

This report will focus on of the numbers of new and open cases that have been received in the last quarter compared to the numbers in the previous quarter.

In the last quarter (April - June 2019) a further 68 new cases have been reported, less than the previous quarter (73). The current number of open cases is 268. The number of open cases has decreased in this quarter given that in the last quarter it was 286. Such figures are illustrated in the graph below.



A number of the cases have associated pending planning applications that are awaiting determination (7 as at 25 July 2019).

Date report prepared

25 July 2019

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List of Local Validation Requirements for planning and listed building consent applications

Purpose of the Report

The purpose of this report is to seek approval of a revised List of Local Validation Requirements for the following reasons:-

- The existing List of Local Validation Requirements was published almost two years ago and must be reviewed if it is to continue to form part of the validation of planning applications process from 1st October 2019.
- To ensure that the approved List of Local Validation Requirements reflects changes to statutory requirements, policies in the National Planning Policy Framework and the Development Plan, or published guidance following the publication of the current list.
- To provide applicants with more certainty as to what will be required when submitting a planning/listed building consent application,
- To enable the Council as the Local Planning Authority to make proportionate requests for additional information to assist in the consideration of development proposed within a planning/listed building consent application, and
- To enable the Council to refuse to register an application which is not supported by information that is identified on the List of Local Validation Requirements as being necessary in the consideration of the development proposed.

Recommendation

That Committee approves the revisions to the list arising from the consultation process as set out in Appendix 1, so that the revisions can be made, the revised list published on the website and thereafter used in the validation process.

Reasons

A revised List of Local Validation Requirements (LLVR) has been prepared by your Officer and is in the process of being amended in response to comments received through consultation. The adoption of such a List will enable the Council to continue to require the provision of information, over and above the submission of application forms, certificates of ownership and plans (i.e. the national validation requirements), to support a planning application for the purposes of validation.

1.0 Introduction

- 1.1 The purpose of this report is to advise members of revisions to the LLVR reflecting changes to policy and in response to comments received through consultation; and to seek Committee approval of the List so that it can be published on the Council's website and become part of the validation process.

2.0 Background

- 2.1 Since 1st October 2010 the validity of planning applications received by this Council as a Local Planning Authority (LPA) has been informed by its List of Local Validation Requirements (LLVR). The LLVR sets out what information, over and above the national

requirements, is necessary to accompany planning applications. The latest LLVR (attached at Appendix A) was published, following a review and consultation exercise, on 1st October 2017.

- 2.2 As set out at paragraph 44 of the National Planning Policy Framework (NPPF), unless the Council before 1st October 2019 reviews and publishes a new List or announces on its website that no changes are necessary, the information requirements set out in the current list will have no bearing on whether a planning application is valid after that date. Paragraph 44 goes on to indicate that the Local Planning Authority (LPA) should only request supporting information that is relevant, necessary and material to the application in question. The Development Management Procedure Order 2015 (as amended) states that in addition to being specified on an up-to-date List of LVRs information requested by the LPA for a particular planning application must be
- Reasonable, having regard, in particular, to the nature and scale of the proposed development
 - About a matter which it is reasonable to think will be a material consideration in the determination of the application
- 2.3 As set out in the PPG it is expected that both the applicant and LPA should make every effort to resolve disagreements about the information needed to support a planning application to avoid disputes over the information necessary to validate an application and reduce associated delays. There is, however, a procedure in the Development Management Procedure Order to resolve any disputes that do arise. Where the LPA maintains its position that information is required in order to validate the application, and that information is not received, or the LPA doesn't respond or register the application, an applicant may appeal to the Planning Inspectorate against non-determination of the application after the relevant time period has passed.

3.0 Consultation Process

- 3.1 The consultation on the draft revised LLVR agreed by the Planning Committee at its meeting on the 16th July took place over a period of 3 weeks ending on 20th August. The Authority wrote to 40 agents and 62 of the groups and bodies that are consulted as part of the determination of planning applications (consultees). In addition a notice was placed in the Sentinel. The draft revised List of Local Validation Requirements and details of the consultation were published on the Council's website and comment was invited.
- 3.2 The majority of the comments received and your Officer's suggested response to them are summarised in the Table attached at Appendix 1. Comments have also been from the Environmental Health Division however due to the extensive nature of them and the need for discussions to take place to better understand them it has not been possible to include them at Appendix 1. A supplementary report providing a summary of such comments and your Officer's suggested response will be published in a supplementary report in advance of the meeting.

4.0 Next Steps

- 4.1 Once the List has been approved it will be necessary to publish it on the Council's website and at that point it will become part of the validation process. This must be done before 1st October 2019.

Background Papers

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

Date report prepared 30th August 2019

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Consultee/ Commenter	Comments received	Proposed response/ action
1. Denise Booth (Member of the public)	<p>No help on website or an easy way of finding the information.</p> <p>Blinded with jargon that the Council has used and hope that nothing underhand is going on behind the public's back.</p> <p>The Council has lost the respect of many Newcastle residents in the lack of foresight into our Town's heritage and viability.</p>	1. All comments are noted but no amendments are suggested within the response and no amendment is required.
2. Landscape Development Section of the Council (LDS)	<p>New 'information item' is required for applications that involve the removal of rural hedgerows where permission for removal is required under the terms of the Hedgerow Regulations 1997. The required information should be an Assessment as to whether the affected hedgerow/s meets the 'Important Hedgerow' criteria as defined by the Regulations.</p> <p>Information item 27 'Tree Survey/Arboricultural Implications Assessment' should be renamed 'BS5837:2012 Tree Survey/Arboricultural Impact Assessment/Retained Trees and Root Protection Areas.</p> <p>What information is required' in respect of information item 27 should be amended to provide guidance under three headings - Tree Survey, Arboricultural Impact Assessment (AIA), Retained Trees and Root Protection Areas (RPAs). The guidance for Tree Surveys to be up to the end of the bullet points and additional text should be included as follows:</p> <p><i>2) Arboricultural Impact Assessment in accordance with BS5837:2012 paragraph 5.4 used to evaluate the direct and indirect effects of the proposed design and where necessary recommends mitigation.</i></p> <p><i>3) Retained Trees and RPAs shown on the proposed layout</i></p> <p>Replacing the first sentence of the paragraph after the bullet points other than "Using the methodology set out in the BS should help to ensure that development..." which should be retained so that it is clear that it relates to all 3 headings</p> <p>Where to look for further assistance in respect of information item 27 should include reference to the Town and Country Planning (Tree</p>	<p>2. Agreed - a new information item 'Hedgerow Assessment' should be included</p> <p>3. Agreed that the information item should be renamed by including reference to retained trees and RPA</p> <p>4. Agreed – text should be added and amendments made</p> <p>5. Agreed – link should be added to these regulations.</p>

<p>3. Network (NR)</p> <p>Rail</p>	<p>Preservation) (England) Regulations 2012</p> <p>They advise that they are a statutory consultee for any planning applications within 10m of relevant railway land (as the Rail Infrastructure Managers for the railway, set out in Article 16 of the Development Management Procedures Order) and for any development likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing a railway (as the Rail Networks Operators, set out in Schedule 4(J) of the Development Management Procedure Order). They are also a statutory undertaker responsible for maintaining and operating the railway infrastructure and associated estate. It owns, operates and develops the main rail network. The aim to protect and enhance the railway infrastructure, therefore any proposed development which is in close proximity to the railway line or potentially affect NRs specific land interest will need to be carefully considered.</p> <p>The following should be added to 'What information is required' in respect of information item 8 'Flood Risk Assessment and Sustainable Drainage' where it refers to SUDS adjacent to an operational railway. "SUDS must not be used as a means of surface water mitigation within 30m of the railway boundary (due to the potential of infiltration methods of surface water mitigation impacting cutting slopes, support zones for embankments. Surface water drainage within 30m of the railway boundary should be removed from site via a closed sealed pipe system. Developers are advised that attenuation ponds and basins are to be sited as far away from the railway boundary as is possible and must not be sited where a development is adjacent to a slope / cutting."</p> <p>The following should be added to 'What information is required' in respect of information item 18 'Parking Provision Details' <i>"Assessment of road vehicle incursion measures where access road, turning circles and parking spaces are proposed adjacent to the railway boundary"</i>.</p>	<p>6. The LPA were aware of this and this is noted – no amendment required.</p> <p>7. Agreed – text should be added for relevant section/s (see suggested amendment 24 below)</p> <p>8. Agreed – text should be added</p>
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	<p>They note the following text under the heading ‘What information is required’ in respect of information item 25 ‘Transport Assessment’.</p> <p><i>“The coverage and detail of the TA should reflect the scale of the development and the extent of the transport implications of the proposal. For smaller schemes the TA should simply outline the transport aspects of the application, while for Major proposals, the TA should illustrate accessibility to the site by all modes of transport, and the likely modal split of journeys to and from the site. It should also give details of proposed measures to improve access by public transport, walking and cycling, to reduce the need for parking associated with the proposal, and to mitigate transport impacts. <u>In addition, consideration should be given to the impact of increased footfall on Railway Stations.</u>”</i></p> <p>The section underlined and in italic is noted.</p>	9. No amendment required
	<p>Transport Assessments (25) should include consideration of the impact of proposals upon level crossing(s) with mitigation implemented as required.</p>	10. There are no level crossings within the Borough and as such the suggested amendment is not considered to be necessary.
4. Sport England (SE)	<p>SE validation requirements for planning applications affecting playing field land has been provided that sets out the information that enables them to provide a substantive response to applications on which it is consulted and will also aid the LPA to assess an application in light of paragraph 97 of the NPPF and relevant Local Plan Policies</p>	11. The ‘What Information is required’ section of information item 17 ‘Open Space Assessment’ should be amended to include any additional validation requirements from Sport England’s checklist not already included.
5. Staffordshire Fire and Rescue Service (SFRS)	<p>Request that reference to the requirement for planning applicants to submit a fire statement to LPAs clearly outlining the provisions they have made for Fire and Rescue Service vehicle access and access to water supplies as required should be included in information items 1 (Affordable Housing), 6 (Community Infrastructure Statement) and 7 (Design Review).</p> <p>Provision of a link on public access to their Fire Safety Guidance for Commercial and Domestic Planning Applications</p>	12. The comments are noted however this requirement does not fit within any of the information items identified nor under any of the other information items contained within the list. In addition there are no policy drivers that would support the inclusion of this requirement as a new information item.
6. HS2 Ltd (HS2)	<p>No comment</p>	13. There are no appropriate information items within the list of local validation requirements where such a link could be included, however consideration will be given to its inclusion somewhere within the planning application section of the Council’s website.
		14. No amendment required

<p>7. Severn Trent (ST)</p>	<p>A detailed drainage strategy should be submitted with planning applications as early as possible such as outline stage, to give time to react and make comment on anticipated issues before they progress too far and become difficult to resolve or alter. This should help reduce the number of Grampian condition requests.</p> <p>Surface water disposal from site should be detailed, again as early as possible such as at outline stage. Discharge of surface water into a foul or combined sewerage system causes capacity related issues and they wish to liaise and proactively work with developers with as much lead time as possible to resolve them.</p>	<p>15. Information item on Sustainable Drainage (see suggested amendment 24 below) could make reference to the need to provide a detailed drainage strategy, even if not a sustainable drainage system, for all major development.</p> <p>16. Information item 9 'Foul Sewage Statement' should refer under 'What heading is required' that it should be demonstrated that surface water will not be discharged into a foul or combined sewerage and encourage liaison with the relevant Utility Company when designing the drainage system.</p>
<p>8. Natural England (NE)</p>	<p>No comment</p>	<p>17. No amendment required</p>
<p>9. Coal Authority (CA)</p>	<p>The link to the Exemptions list links through to an old version on information item 5 'Coal Mining Risk Assessment'</p> <p>The link through to the building on or within influencing distance of the mine entries in the draft document under 'Where to look for further assistance' of information item 5 does not work</p>	<p>18. Agreed - the link should be amended to ensure that it is to the up to date list of exemptions</p> <p>19. Agreed - the link should be amended to ensure that it works.</p>
<p>10. Highway Authority (HA)</p>	<p>Reference to the following required</p> <ul style="list-style-type: none"> • Dimensions of visibility splays should be detailed on a scaled plan • Access, parking, turning and servicing should be clearly delineated on a scaled plan 	<p>20. The 'What Information is required' section of information item 18 'Parking Provision Details' should be amended to include reference to the need to provide such information.</p>
<p>11. County Council Ecologist</p>	<p>Reference to Conservation of Habitats and Species Regulation 2010 should be replaced by Conservation of Habitats and Species Regulation 2017 and reference to The Conservation (Natural Habitats etc.) Regulations can be deleted under 'Where to look for further assistance' of information item 4 'Biodiversity survey and report'</p> <p>It may be helpful to reference good lighting design where bats may be a consideration by reference to guidance under information item 4 and information item 14 'Lighting Assessment'</p> <p>Reference is made to no net loss to biodiversity under information item 4 'Biodiversity survey and report'. The Government has now indicated its intention to mandate net gain, and NPPF also has clear indications that net gain is sought. Whilst the mechanisms of the mandatory net gain is not yet known reference should be made to the need to achieve</p>	<p>21. Agreed – such amendments should be made</p> <p>22. Agreed – link to document should be added in the 'Where to look for further assistance' section of information items 4 and 14</p> <p>23. Agreed – text should be amended as follows</p> <p><i>It should be demonstrated that adverse impacts on important habitats and species have been avoided where possible and that unavoidable impacts have been fully mitigated or that, where mitigation is not</i></p>

	net gain to avoid the Local Validation List becoming outdated too soon.	<i>possible, compensation is proposed that results in no net loss of biodiversity or to achieve net gain if/when this becomes mandatory.</i>
12. United Utilities (UU)	It would be more appropriate to split the issues of flood risk and surface water management (currently information item 8) into two separate information items i.e. an information item for Flood Risk Assessment and a separate one for Foul and Surface Water Drainage Scheme and Sustainable Drainage Strategy to appropriately embed the intentions of national policy.	24. Agreed – the information items should be separated and a new information item created ‘Foul and Surface Water Drainage Scheme and Sustainable Drainage’
	The requirement for a Sustainable Drainage Strategy should be for the following ‘Types of Applications and Geographic Location(s)’ <ul style="list-style-type: none"> • Major developments (except a change of use where no increase in permeable area is proposed) • Residential development of 5 or more properties (except a change of use where no increase in permeable area is proposed) • Development on land of 0.5ha or more in critical drainage areas • Developments in flood risk locations 	25. Agreed – the ‘Types of Applications and Geographic Location(s)’ for the new ‘Foul and Surface Water Drainage Scheme and Sustainable Drainage’ should be as requested
	The Sustainable Drainage Strategy is to set out how surface water from a development site will be managed sustainably under both current and future conditions, and to support the proposed approach with appropriate evidence, such as infiltration results and drainage calculations with relevant plans and drawings. The Sustainable Drainage Strategy must also set out how sustainable drainage components are intended to be constructed, managed and maintained to ensure that the sustainable drainage system will continue to perform throughout the lifetime of the development. A sustainable drainage strategy should identify: <ul style="list-style-type: none"> • Current Drainage system, capacity and discharge rate • Infiltration Tests carried out to BRE 365 • New surface water system, capacity, storage and discharge rate • Proposed outfalls for surface water • Existing drainage arrangements showing existing operational surface water connections on previously-developed sites • Details of adoption • Maintenance and management information for un-adopted sections • Topographical changes to the landscape • Other mitigation measures e.g. Finished Floor Levels • Demonstrate compliance with the requirements of any applicable 	26. Agreed – the ‘What information is required’ for the new ‘Foul and Surface Water Drainage Scheme and Sustainable Drainage’ should be as requested

<p>SuDS guidance</p> <ul style="list-style-type: none"> • If the proposal is part of a number of phases, the strategy should demonstrate access to/from interconnecting phases <p>A surface water strategy would seek to demonstrate a full investigation of the surface water hierarchy and highlight options that are preferred to the public combined sewer for the discharge of surface water. Applicants should provide clear evidence when demonstrating why more preferable options within the hierarchy have been discounted.</p>	
<p>In line with paragraph 5 of the National Planning Practice Guidance (PPG) and paragraph 182 of the NPPF would wish to see the requirement for a noise and odour assessment for proposed developments situated in close proximity to an existing waste water treatment works as there are a number in the Borough that could be a potential source of noise and odour if new sensitive receptors are proposed within close proximity</p>	<p>27. Agreed – paragraph 182 of the NPPF relates to the effective integration of new development with existing businesses and community facilities to avoid unreasonable restrictions being imposed as a result of the development (although waste water treatment works is not cited as an example of what this includes) and it is considered that this provides the required policy driver to justify the inclusion of a new information item relating to the need for an odour assessment. In addition development near waste treatment works should be added to the ‘Types of Applications and Geographic Location(s) that require this information’ for information item 16 ‘Noise and Vibration Assessment’</p>
<p>A Utilities Assessment which includes a Drainage Statement is required for:</p> <ul style="list-style-type: none"> • All new residential development • Development in flood zones and critical drainage areas <p>This should be in the form of a statement, with associated plans to show:</p> <ul style="list-style-type: none"> • Existing drainage arrangements showing any details of on-site infrastructure • Topography of the site and identify how this affects the proposed outfalls for surface water • Any diversions and any connections as part of the development; and • Details of adoption, highlighting compliance with applicable SuDS guidance. <p>This is in line with National Planning Policy Framework paragraphs 8a) ‘coordinating the provision of infrastructure’.</p>	<p>28. Not agreed – paragraph 8(a) of the NPPF refers to the economic objective, which is one of three overarching objectives in achieving sustainable development. It is not considered to be a suitably clear policy driver for the inclusion of the requested information item. In addition it is considered that it would not be “reasonable, having regard in particular to the nature and scale of the proposed development” to require such information for all new residential development and as such would not be in accordance with Development Management Procedure Order 2015</p>
<p>Maintaining and improving water quality and the treatment of water and</p>	<p>29. Not agreed – there is not a clear policy driver to justify the</p>

	wastewater in the face of population growth, changing environmental legislation and climate change pressures will be an ongoing challenge for the development industry over the coming years. They recommend consideration of the requirement for a sustainability statement to ensure water (and energy) efficiency measures are fully considered in the design of new development. New development can become more resilient to climate change by encouraging water efficiency measures including water saving and recycling measures to minimise water usage. Such a proactive approach is designed to mitigate and adapt to climate change, taking into account the long-term implications for water supply in the [borough/region].	requirement for this information item at this time.
13. Local Lead Flood Authority (LLFA)	Reference to the Staffordshire County Council Sustainable Drainage Systems (SuDS) Handbook should be included under 'What information is required' as well as under 'Where to look for further assistance' of information item 8 'Flood Risk Assessment and Sustainable Drainage', as this sets out both the national non-statutory technical standards for SuDS (defra, March 2015) and our local standards, with a checklist of required information.	30. Agreed – reference to the Handbook should be added as requested.
14. Highways England (HE)	Reference to DfT Circular 02/2013 'The Strategic Road Network and the Delivery of Sustainable Development' should be added to 'Where to look for further assistance' in respect of information item 3 'Air Quality Assessment'; item 8 'Flood Risk Assessment and Sustainable Drainage'; item 14 'Lighting Assessment'; and item 16 'Noise and Vibration Assessment'	31. Agreed – link to document should be added in the 'Where to look for further assistance' section of all the relevant information items.
15. Staffordshire Wildlife Trust (SWT)	The detailed information provided under 'Types of Applications and Geographic Location(s) that require this information' of information item 4 'Biodiversity survey and report' is particularly useful and is reflective to the Staffordshire County Council's detailed validation document. The SCC document also provides a number of summary tables covering triggers for protected species survey and assessment, requirements for designated sites and priority habitats and species survey season. The use of use of summary tables is particularly useful as a quick reference resource to supplement written guidance, particularly for protect species surveys and could be included/appended as part of the revised local list. If this is not feasible, reference could be considered to the SCC document and	32. Agreed that a link to the summary tables should be included in the 'Where to look for further assistance' section of this information item.

	supporting guidance under further information.	
	Reference to a Preliminary Ecological Appraisal should be included under 'What information is required' section of information item 4 in place of reference to an initial ecological assessment and should make reference to achieving a biodiversity net gain	33. Agreed - reference to Preliminary Ecological Appraisal should be included and reference to biodiversity net gain will be included as set out at suggested amendment 23 above).
	The order of the links included under 'Where to look for further assistance' should be reviewed	34. Agreed – the order of the links should be amended to reflect SWTs suggestion.

APPEAL BY MR D MORRIS AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT OUTLINE PLANNING PERMISSION FOR THE CONSTRUCTION OF SIX SHARED OWNERSHIP DWELLINGS AT LAND ADJACENT TO 6 BRASSINGTON TERRACE, DEN LANE, WRINEHILL

<u>Application Number</u>	18/00376/OUT
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	26th July 2019

The Appeal Decision

The Inspector identified the main issues for consideration to be;

- i. Whether the appeal development would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and Development Plan Policy;
- ii. The effect of the proposed development on the openness of the Green Belt;
- iii. Whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the Housing Strategy of the area;
- iv. The effect of the proposed development upon highway safety;
- v. The effect of the proposed development upon the natural environment, with particular regard to the Betley Mere Site of Special Scientific Interest (SSSI) and the Midland Meres and Mosses Phase 1 Ramsar Site; and
- vi. Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

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

Whether the proposal is inappropriate

- The Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. The appellant is of the opinion that the development of the appeal site would constitute 'limited infilling of villages' and also 'limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites).'
- Policy S3 of the Newcastle under Lyme Local Plan 2011 (LP) also reflects the general thrust of the Framework with regards to development in the Green Belt, and also lists additional criterion, such as the development of a small gap of no more than 2 plots within the built-up area of a village of Keele.
- The appeal site would not be part of Keele, and is relatively detached and not integrated with a defined village, and is seen alongside the other sporadic development within the open countryside on the outskirts of Wrinehill.
- The Council disputes that there is a need for affordable housing in this particular location, and based on the evidence provided this need for affordable housing has not been demonstrated.
- There is a significant conflict between the proposal and the exceptions specified by the Framework and the Development Plan. The appeal proposal would not constitute limited infilling of villages or fulfil an affordable housing need. Accordingly, in accordance with Paragraph 145 of the Framework, the proposal would be 'inappropriate development' in the green belt. Additionally, the scheme would be contrary to Policy S3 of the LP where the scheme does not meet any of the exceptions specified for development within the Green Belt. Therefore, substantial weight is attached to the harm arising due to the inappropriate nature of the appeal development.

Openness

- Whilst there is no definition of 'openness' in the Framework, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. Openness has also been shown to have both spatial and visual dimensions. In this particular case the appeal site is undeveloped and has an open aspect with views through the site to the countryside beyond. Whilst there is development on all three sides of the appeal property, this takes the form of a more sporadic development, where the development surrounding is experienced within the rural context of the countryside beyond which is reinforced by the topography of the site, and the narrow rural carriageway with hedges bordering either side.
- Paragraph 133 of the Framework states that 'the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence'. Whilst scale is not for approval, the application documents refer to the scheme of a terrace of six dwellings which would replicate Brassington Terrace, which are two storey Victorian properties. On this basis, the proposal would lead to built development where there is currently none. It would further erode the open aspect currently experienced and introduce residential development in the form of a development of terraced dwellings which would further erode the aims of the greenbelt. The proposed dwellings would be a material addition to the amount of built development on the site, which has a significant effect upon the openness of the Green Belt in this location. Nevertheless, this additional effect of the development on the openness of the site, and on the Green Belt, adds to the harm already caused by reason of its inappropriateness.

Suitability of the site for development

- The Council's Housing Strategy consists of Policy H1 of the LP, and Policies SP1 and ASP6 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2009 (CS). The housing strategy seeks that most new dwellings are located within defined settlement boundaries in accordance with a settlement hierarchy. The appeal site is located in a relatively isolated position, detached from Wrinehill, the nearest village. Wrinehill is not a designated settlement for delivering growth under Policy ASP6 of the CS which seeks that 'key service villages' and the towns are the focus of growth.
- In assessing the sustainability credentials of the proposed scheme, whilst the nearest settlement is Wrinehill, this is not a designated settlement for providing growth as outlined in the Housing Strategy. Despite this, according to the appellant, Wrinehill has a bus to Crewe and Newcastle; a doctors surgery; village hall; playground; public houses; village shop; post office; recreational facilities and a primary school.
- Even if Wrinehill was considered to be a suitable location for development, the appeal site is detached from this village with the only access via Den Lane, a narrow, largely unlit rural carriageway with hedges to either side and no footpath into the settlement of Wrinehill. The appeal site would therefore fail to be well integrated and would be detached from the village of Wrinehill. The Inspector considered that future occupants would be entirely dependent upon private vehicular use, given that there are no footways to access any nearby settlement.
- Whilst comments have been received which suggest that the site would 'join existing development' and has development on all three sides, the adjoining dwellings on either side are not part of the built-up form of a village and the rear development is in use as a day nursery. In review of this situation against relevant case law, the appeal site does lack sufficient accessibility to surrounding settlements and would be wholly dependent upon private vehicular use.
- Given the above factors, in relation to the housing strategy, it is concluded that the proposed development would not be in a suitable location which would be in line with the housing strategy Policies ASP6 and SP1 of the CS; Policy H1 of the LP and the Framework for delivering sustainable development.

Highway Safety

- A total of two accesses would be provided to accommodate the site, one of which to the left is existing and services the day nursery and 1-6 Brassington Terrace.

- Den Road like many rural roads suffers from limited width which impedes simultaneous two-way flow. Refuge areas are needed in order to allow vehicles to stop momentarily to give way to traffic coming in the opposite direction.
- Given this section of road is 30mph, it is nearby the increase of speed limit to 60mph, however it did appear that vehicles were travelling over 30mph. This point was also raised by the Highways Authority (HA) who seek to understand the speed of vehicles travelling along the road in order to determine appropriate visibility splays, which may need to be wider than those recommended for 30mph roads of 2.4 x 43 metres. Whilst the HA state that there have been no reported incidents in the past 5 years, and that the road appears to be operating without any significant safety issues, a speed survey would be necessary to determine the appropriateness of the access and visibility splays.
- Assessing the proposed visibility splays for a 30mph road, the HA has provided a map showing the extent of the highway. With regards to the existing access, this according to the HA is already sub-standard for the current use. Visibility splays towards the westerly direction are not obtainable and the HA would not support the use of the already sub-standard access for increased vehicular movements caused by the development.
- With regards to the new proposed access, the proposed scheme is not able to demonstrate the required visibility splays in the westerly direction without being reliant on third party land of the detached dwelling known as 'Savelaure.'
- Based on the evidence the proposed scheme is not able to demonstrate appropriate visibility splays and access, and further investigations to the speed of the road may cause the splays needing to be wider. As such there is a lack of adequate information available in order to approve the proposed and existing access, and demonstrate that a safe and suitable access to the site can be achieved for all users. The site therefore is likely to cause unacceptable impacts upon highways safety and be contrary to Paragraph 109 of the Framework.

Natural Environment

- The appeal site is within proximity to Betley Mere SSSI as well as being within proximity to the Midlands Meres and Mosses Phase 1 Ramsar Site which are designated national and European sites. In order to determine the appropriateness of the principle of the development, evidence in the form of a Habitats Regulation Assessment which details ecological impacts, whether the hedgerow is defined as an 'important hedgerow,' foul and surface water drainage and resultant impacts and a plan to mitigate any identified harm is required.
- Based on the evidence it is not possible to understand whether the appeal scheme would cause significant effects to the natural environment, and in particular the SSSI and the Ramsar site. The scheme would therefore be contrary to Policy CSP4 of the CS which seeks to ensure that the location, scale and nature of all development planned avoids and mitigates adverse impacts upon the natural environment and designated sites, and Paragraph 175 of the Framework which seeks measures to protect and mitigate against harm to habitats and biodiversity.

Other considerations

- The Council draw attention to the housing supply and weight given to housing strategy policies via the engagement of Paragraph 11 of the Framework and two appeal decisions due to the Local Plan policies being significantly out of date. In these decisions, the Inspectors afforded little weight to Policy ASP6 of the CS and Policy H1 of the LP in relation to the housing delivery, supply, and the location of settlement boundaries and have instead applied the general thrust of sustainable development as noted in the Framework. This is to locate new development towards settlements with a range of facilities and access to public transport. Whilst these appeals are both considered, they are not analogous to the circumstances of the appeal site given that in this particular instance Paragraph 11 of the Framework is not engaged as the green belt designation is excluded from this 'tilted balance' where it provides a clear reason for refusing the development proposed.
- Consequently, these other considerations do not, either separately or cumulatively, clearly outweigh the substantial harm to the Green Belt by reason of

inappropriateness and the harm to the openness of the Green Belt. As a result, the very special circumstances that are required to permit the development do not exist. The appeal development would therefore conflict with the provisions of the Development Plan and with the Framework, as referred to above.

Conclusion

- In conclusion, the appeal proposal does not sufficiently demonstrate that appropriate access can be achieved or that the natural environment including designated sites will not be detrimentally harmed. The appeal site would not be a suitable location which would be entirely dependent upon private vehicle use. The site would be inappropriate development in the terms set out in the Framework and, in addition, it would lead to a significant loss of openness to the Green Belt and cause harm to the open countryside in this location. These issues are not outweighed by the considerations advanced by the appellant. The other considerations in this case do not clearly outweigh the harm that has been identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, for the reasons given above the appeal is dismissed.

Recommendation

That the appeal decision be noted.

APPEAL BY M ROBINSON AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR A DETACHED DWELLING AT PLOT 146 MELVILLE COURT, CLAYTON

<u>Application Number</u>	18/00451/FUL
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	9th July 2019

The Appeal Decision

The Inspector identified the main issues to be:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (Framework) and any relevant development plan policies;
- the effect of the development on the openness and the purposes of including land within the Green Belt;
- the effect on the character and appearance of the area; and,
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

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

Inappropriateness

- The appeal site falls within the Green Belt as defined in the Council's development plan, which comprises the Newcastle Under Lyme Local Plan (LP) 2011 and the Newcastle Under Lyme and Stoke on Trent Core Spatial Strategy (CSS) 2009.
- The appellant contends that the appeal site appears on two Land Registry plans dated 1974 and 1988 whereby the site does not encroach into the Green Belt. However, there is no evidence of these plans which in any event would predate the LP and the CS and therefore, even if the site was not within the Green Belt on those dates, it is plausible that the Green Belt has been extended since. The site falls within the Green Belt.
- The Framework states that inappropriate development in the Green Belt is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 145 of the Framework states that the construction of new buildings in the Green Belt shall be regarded as inappropriate development. There are a number of exceptions to this. However, the appellant does not contend that the proposal falls within any of these.
- The proposal would be inappropriate development, and therefore would be contrary to saved Policy S3 of the LP, which seeks to protect the Green Belt from inappropriate development, and the Framework. In accordance with the Framework, substantial weight must be given to this harm.

Openness of the Green Belt

- The Framework indicates that openness is an essential characteristic of the Green Belt with a key objective being to keep land permanently open. Openness has both a visual and spatial dimension and the absence of visual intrusion does not, in itself, mean that there is no impact on the openness of the Green Belt.
- The dwelling would be located in what is currently a densely wooded area that is free from any built-form, to the south of an existing housing development. Whilst the site is overgrown with various trees and undergrowth, it nevertheless provides a verdant

openness that makes an important role in defining the edge of the Green Belt. The introduction of a dwelling on the site, and the resultant loss of trees and vegetation, would create an intrusive form of development.

- Moreover, the erosion of three-dimensional space arising from the overall size of the buildings would in itself result in an erosion of openness, which would conflict with paragraph 133 of the Framework which identifies openness as an essential characteristic of Green Belts. Accordingly, significant weight is attributed to the effect it would have on openness.
- In addition, the dwelling would extend the existing built form of the adjacent housing development therefore encroaching into the countryside. This would be contrary to one of the five purposes of the Green Belt set out in paragraph 134 of the Framework, which seeks to safeguard the countryside from encroachment.
- Therefore the visual intrusion of the dwelling and its erosion of three-dimensional space arising from its size would result in the erosion of openness, which would conflict with paragraph 133 of the Framework. In addition, it would conflict with the purposes of including land within it, in particular safeguarding the countryside from encroachment.

Character and Appearance

- The existing trees and undergrowth form part of a wider woodland that links in with the nearby nature reserve. Whilst the site is unkempt and many of the trees are likely to have been self-set, this does not have a detrimental effect on the visual amenity of the area. On the contrary, it makes a positive contribution to its character and appearance, defining the boundary between the built and natural environment.
- It is proposed that many of the existing trees would be retained to the front, rear and side of the dwelling, therefore reducing its visual impact. However, many of these trees would be in proximity to a number of the windows in the dwelling and therefore would likely reduce the level of light entering the dwelling when the trees grow larger. Furthermore, much of the outdoor amenity space would be in shadow, particularly when the trees are in leaf, thus reducing the usability of the amenity space. In addition, due to the proximity of the proposed dwelling to the retained trees, in time there would be pressure to remove overhanging branches given that they could be directly above the dwelling. The potential fear of falling branches and damage to the dwelling would likely give rise to an increase in pressure for the reduction or, at worst, removal of the trees. Consequently, such works would have a significantly detrimental effect on the appearance of the site and the overall character and appearance of the area.
- The dwelling would extend no further south than the existing development on the opposite side of the road and, on plan, would be read as rounding off the existing development. However, this does not provide sufficient justification for the harm identified above.
- The Inspector found therefore that the proposal would significantly harm the character and appearance of the area, contrary to saved Policies N12, N13, N17 and N19 of the LP, which, amongst other matters, seek to ensure that development is informed by and be sympathetic to landscape character, including the protection of trees. In addition, it would fail to accord with the design objectives of the Framework.

Planning Balance

- The appeal scheme has harmful implications for the Green Belt in terms of inappropriate development, the erosion of the openness of the Green Belt and the conflict with the purpose of including land within it. The Framework establishes that substantial weight should be given to any harm to the Green Belt. Furthermore, the development would significantly harm the character and appearance of the area.
- The substantial weight given to Green Belt harm is not clearly outweighed by any considerations advanced by the appellant. Therefore, there are no very special circumstances to justify the new dwelling and the proposal would conflict with saved Policy S3 of the LP and the Framework.

Recommendation

That the appeal decision be noted.

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APPEAL BY MR CLIVE TREVOR AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR THE ERECTION OF A DETACHED DWELLING TO REPLACE AN EXISTING WORKSHOP AND STORAGE BUILDINGS AT THE BRACKENS, LEYCETT LANE, LEYCETT

<u>Application Number</u>	18/00444/FUL
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Allowed
<u>Date of Appeal Decision</u>	26th July 2019

The Appeal Decision

The Inspector identified the main issues for consideration to be;

- i. Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; and
- ii. Whether the proposal would provide a suitable location for development, having regard to the housing strategy of the development plan and the sustainability of the site.

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

Whether the proposal is inappropriate

- Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. The relevant exception which is sought to be applied to the appeal site in this case is of partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.
- The appeal site consists of three main buildings which are currently utilised for storage of domestic and commercial items. According to the appellant, the current buildings have a volume of 419m³, a footprint of 137m² and an internal area of 119m².
- A letter from an accountant who represents the appellant for their tax affairs; confirms that it has for the past 8 years been utilised as commercial storage for two businesses: Clive Trevor Heating and Plumbing Engineer; and Ablebathe. The declaration states that prior to the appellant owning the site, that the buildings were used by a company called HG Moors in association with the storage of plant machinery, repairs and vehicle repair, from the late 1960's. Based upon the evidence, the Inspector considered that the appeal site would meet the definition of 'Previously Developed Land' as defined by the Framework. The Framework at 145 (g) then requires an assessment of the impact and harm caused to the openness of the Green Belt.
- The proposed dwelling would be one and a half storeys, with first floor accommodation in the roof space and be positioned in place of the existing larger barn and would have a rectangular footprint. The volume of the site would be consolidated into the proposed dwelling, with overall a reduction in the amount of built form with the existing smaller barn and stable block removed. Whilst the proposed building would be 80 centimetres taller than the existing barn, the resultant volume of the proposed scheme would be lower at 412m³, a footprint of 119m², and an internal area of 85m³.
- Openness has been shown to have both spatial and visual dimensions. In this particular case, the scale of development would be less with a noticeable difference in the amount of built form with development concentrated on one building which allows two barns to be removed which will allow a greater open aspect. Whilst the increase in residential paraphernalia as would be typical with a dwelling would be

increased, the dwelling is relatively contained amongst existing vegetation, is of an appropriate purpose and is an appropriate low-built form, design, use and scale for this particular context. In this particular circumstance the proposed scheme would preserve the level of openness currently experienced.

- That said, the Inspector considered that the scheme represents the development of previously developed land that would not have a greater impact to the openness of the Green Belt and therefore have 'no harm.' As such, the proposed scheme would not be inappropriate development in the Green Belt.

Suitability of the site for development

- The Council's Housing Strategy consists of Policy H1 of the Newcastle under Lyme Local Plan 2011 (LP), and Policies SP1 and ASP6 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2009 (CS). The housing strategy seeks that most new dwellings are located within defined settlement boundaries in accordance with a settlement hierarchy.
- The Council draw attention to the weight given to housing strategy policies via the engagement of Paragraph 11 of the Framework and two appeal decisions due to the Local Plan policies being significantly out of date. In these decisions, the Inspectors afforded little weight to Policies AP6 and H1 of the LP in relation to the housing delivery, supply, and the location of settlement boundaries and have instead applied the general thrust of sustainable development as noted in the Framework. This is to locate new development towards settlements with a range of facilities and access to public transport. Given that in this circumstance, the green belt designation does not provide a clear reason for refusing this development, there is no reason to divert from such an approach as previously undertaken by other Inspectors, and accordingly afford little weight to Policies AP6 of the CS and H1 of the Local Plan in terms of settlement boundaries and supply. However substantial weight is given to the general thrust of sustainable development as this component of these policies are in accordance with the Framework which seeks the development of sites in sustainable locations.
- Paragraph 78 of the Framework and relevant Case Law shows that development in countryside locations can enhance or maintain the vitality of rural communities where they are suitably located, which may not only be associated with the closest settlement, but other settlements surrounding. The nearest settlement to the appeal site is Madeley Heath, approximately 300metres away and a little further on, Madeley, which is a Key Service Village which is connected to Madeley Heath by footway and lies approximately 1800 metres away. Madeley Heath contains public houses, a school, and the appeal site would be approximately 300 metres from the nearest bus stop which has half hourly services to Crewe, Hanley, Newcastle Under Lyme and Nantwich. The nearby Key Service Centre of Madeley contains a greater variety of services and facilities such as a supermarket and contains a small parade of shops and restaurants.
- Whilst the appeal site is physically detached from the built form of Madeley Heath, the appeal site has a short median along Leycett Road which connects to a footway that has reasonable accessibility to the nearby villages. Future occupants would have alternative means of transport such as public transport, walking and cycling and not be solely reliant on a private vehicle. The development of the appeal site would be an accessible location and maintain the vitality of rural communities and based on this particular circumstance, would weigh in favour of the site being an appropriate location for development.
- Given the above factors, in relation to the housing strategy, it is concluded that the proposed development would make sufficient use of previously developed land in a reasonably accessible location which would be in line with the Framework and the general thrust of Policies H1 of the LP and ASP6 of the CS for delivering sustainable development in appropriate locations.

Recommendation

That the appeal decision be noted.

APPEAL BY COMMERCIAL DEVELOPMENTS PROJECTS LIMITED AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT EXPRESS CONSENT FOR THE ERECTION OF A 5M DOUBLE SIDED MONUMENT SIGN

<u>Application Number</u>	18/00987/ADV
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Allowed
<u>Date of Appeal Decision</u>	30th July 2019

The Appeal Decision

The Inspector identified the main issue to be the effect of the advertisement on the amenity of the area.

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

- The appeal site has planning permission for the construction of an A1/A3 unit (hereafter referred to as the approved building) and is located adjacent to a light controlled intersection where there are other commercial uses in close proximity. These include a car repairs premises which has a large totem sign on the forecourt and a banner sign on the fascia of the building, a large free-standing restaurant on the opposite side of the road to the appeal site which has a totem sign in the car park area to the front of the building and a car sales business next to the restaurant which has a large open roof canopy displaying the company's branding at fascia level.
- The proposed sign will be erected on a landscaped strip in front of the approved building where it faces Newcastle Road. Although visible from surrounding roads it will be seen against the backdrop of the approved building and would not appear over prominent in this context. Moreover, there are signs of similar scale sited on the forecourt areas of adjacent commercial uses and so the proposal will be seen in this setting without appearing intrusive or harmful to the character of the area. The Inspector considered the design of the sign to be acceptable and consistent with the appearance of the approved building.
- Despite the presence of the other signage on the approved building, the Inspector considered that the height and positioning of the totem would give advance warning to motorists approaching from Newcastle Road and Linley Road where long distance views of the building would be partially obscured by landscaping and a free-standing advertisement hoarding.
- It was concluded that the proposed sign would not harm the amenity of the area and so does not conflict with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, or Paragraph 132 of the National Planning Policy Framework.

Recommendation

That the appeal decision be noted.

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