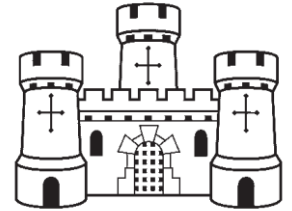


# Public Document Pack

**Date of meeting** Tuesday, 7th January, 2020  
**Time** 7.00 pm  
**Venue** Lancaster Buildings - Lancaster Buildings, 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 5 - 10)  
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF LAMPHOUSE WAY, WOLSTANTON. STAFFORDSHIRE COUNTY COUNCIL. 19/00301/OUT** (Pages 11 - 24)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - DIESEL MARINE INTERNATIONAL LTD, GARNER STREET BUSINESS PARK. DIESEL MARINE INTERNATIONAL LTD. 19/00805/FUL** (Pages 25 - 32)
- 6 **APPLICATION FOR MAJOR DEVELOPMENT - CHATTERLEY VALLEY DEVELOPMENT SITE, PEACOCK HAY ROAD. HARWORTH GROUP PLC. 19/00846/OUT** (Pages 33 - 42)
- 7 **APPLICATION FOR MINOR DEVELOPMENT - NEWCASTLE-UNDER-LYME BOROUGH COUNCIL DEPOT, KNUTTON LANE. NEWCASTLE BOROUGH COUNCIL. 19/00852/DEEM3** (Pages 43 - 46)
- 8 **HALF YEARLY REPORT ON PLANNING OBLIGATIONS** (Pages 47 - 56)
- 9 **QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO** (Pages 57 - 62)

- 10 **QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED** (Pages 63 - 68)
- 11 **OPEN ENFORCEMENT CASES** (Pages 69 - 70)
- 12 **APPEAL DECISION - LAND BETWEEN 164 AND 180 MOW COP ROAD, MOW COP. 18/01004/OUT** (Pages 71 - 72)
- 13 **APPEAL DECISION - 10 POPLAR AVENUE, CROSS HEATH, NEWCASTLE-UNDER-LYME. 18/00692/OUT** (Pages 73 - 74)
- 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.**

#### **SUBSTITUTE MEMBER SCHEME** (Appendix 9, Section 4 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:	S. Dymond	K. Robinson
	M. Holland	S. Sweeney
	K.Owen	G White
	B. Panter	I. Wilkes

*If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need to:*

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place) NB Only 2 Substitutes per political group are allowed for each meeting and your Chairman will advise you on whether that number has been reached

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, 3rd December, 2019  
Time of Commencement: 7.00 pm

**Present:** Councillor Andrew Fear (Chair)

Councillors:	S. Burgess	H. Maxfield	S Tagg
	Mrs J Cooper	P. Northcott	G Williams
	S. Dymond	B. Proctor	J Williams
	D. Jones	M. Reddish	

Officers:	Geoff Durham	Mayor's Secretary / Member Support Officer
	Rachel Killeen	Senior Planning Officer
	Simeon Manley	Interim Head of Planning
	Anne-Marie Pollard	Solicitor
	Peter Stepien	Landscape Officer
	Darren Walters	Team Leader Environmental Protection

Also in attendance:

**1. APOLOGIES**

Apologies were received from Councillor Moffat.

**2. DECLARATIONS OF INTEREST**

Councillor Jones declared an interest in agenda item 13 – application 19/20006/HBG, St John’s Church and would take no part in the discussion.

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

**Resolved:** That the minutes of the meeting held on 5 November, 2019 be agreed as a correct record.

**4. APPLICATION FOR MAJOR DEVELOPMENT - HAMPTON'S SCRAP YARD AND ADJACENT FIELD, KEELE ROAD. PERSIMMON (NORTH WEST) LTD. 19/00623/REM**

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

- (i) Link to outline planning permission and conditions
- (ii) Approved plans/documents
- (iii) Prior to commencement of the construction of the dwellings details of the house types and location of the affordable housing units at the level stipulated within the relevant S106 Agreement shall be agreed by the Local Planning Authority (LPA).
- (iv) Submission and approval of all external facing materials

- and hard surfacing materials.
- (v) Boundary treatments as submitted
- (vi) Soft landscaping scheme as submitted
- (vii) Provision of access, internal roads, private drives and parking areas prior to occupation.
- (viii) Provision of visibility splays prior to occupation.
- (ix) Prior approval of surfacing material and means of surface water drainage for the private drives, parking and turning areas.
- (x) Provision of a 3m wide footway/cycleway linking the internal site roads to the bus stop on Keele Road in accordance with details to be agreed.
- (xi) Private drives to have a minimum length of 6m between the highway boundary and the garage door.
- (xii) Garages to be retained for the parking of motor vehicles and cycle.
- (xiii) Construction Management Plan.
- (xiv) Amendments to play area.
- (xv) Approval of an Arboricultural Monitoring Schedule.
- (xvi) Trees shown to be retained shall be retained and protected throughout the construction phase in accordance with the Arboricultural Impact Assessment.
- (xvii) Approval of alignment of utilities.
- (xviii) Provision of measures to secure parking courts.
- (xix) Construction work to be completed in accordance with BS5837:2012 and the Arboricultural Method Statement provided.
- (xx) Implementation of Landscape Management Plan
- (xxi) Waste storage and collection arrangements.

**5. APPLICATION FOR MAJOR DEVELOPMENT - FORMER MAXIMS, STANIER STREET, NEWCASTLE. BELONG LTD. 19/00754/FUL**

**Resolved:** That the variation of condition 8 of 15/00498/FUL – be permitted to read as follows:

The signing/road markings shall be carried out in accordance with the approved details and shall be retained as such for the lifetime of the development.

And subject to the imposition of all other conditions attached to planning permission 15/00498/FUL that remain relevant at this time.

**6. APPLICATION FOR MAJOR DEVELOPMENT - PLOT 4 VALLEY PARK, WATERMILLS ROAD, CHESTERTON. PARDOLYNN LTD. 19/00755/FUL**

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

- (i) Time limit
- (ii) Approved plans
- (iii) External facing materials
- (iv) Noise assessment and mitigation
- (v) Speakers/alarms/bells
- (vi) Electric vehicle charging provision for onsite staff parking

- (vii) Submission and approval of Surface Water Drainage Strategy
- (viii) Tree protection plan
- (ix) Landscaping Scheme
- (x) Approval and implementation of a remediation strategy if contamination found

**7. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF DEANS LANE AND MOSS GROVE, RED STREET. PERSIMMON HOMES (NORTH WEST). 19/00772/FUL**

Members were informed that this application had been withdrawn.

**8. APPLICATION FOR MAJOR DEVELOPMENT - COMPOUND C AND COMPOUND E, LYMEDALE CROSS. CAISSON IM PROPERTIES. 18/00997/FUL**

- Resolved:**
- A. That, subject to the applicant first entering into a Section 106 obligation by the 8<sup>th</sup> February 2020 to secure a contribution sum of £2,407 towards Travel Plan monitoring, the application be permitted subject to the undermentioned conditions:
    - (i) Standard Time limit for commencement of development
    - (ii) Approved plans
    - (iii) Submission and approval of facing and roofing materials – similar colour and style to adjacent buildings.
    - (iv) Boundary treatments for Site A
    - (v) Revised Travel Plan Framework clearing this
    - (vi) Provision of access, parking, turning and servicing areas
    - (vii) Details and provision of access, layout and signage of the Overspill Parking Area
    - (viii) Cycle storage provision
    - (ix) Submission and approval of a Construction Management Plan (CMP)
    - (x) Provision of replacement 65 space car park adjacent to Site B
    - (xi) Prior approval of external lighting
    - (xii) Electric vehicle charging provision
    - (xiii) Prior approval of noise impacts from plant and machinery
    - (xiv) Prior approval of noise impacts from HGV loading and unloading areas
    - (xv) Land contamination investigations and mitigation measures
    - (xvi) Construction and demolition hours
    - (xvii) Submission and approval of Surface Water Drainage Strategy
  - B. That, should the matters referred to in (A) above not be secured within the above period, then 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 sustainable development

objectives, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

**9. APPLICATION FOR MINOR DEVELOPMENT - 20 SIDMOUTH AVENUE. NEWCASTLE-UNDER-LYME BOROUGH COUNCIL. 19/00708/DEEM4**

*Condition (xvi) was proposed by Councillor Simon Tagg and seconded by the Chair - Councillor Fear.*

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

- (i) Standard time limit
- (ii) Approved plans
- (iii) Approval of external facing materials to the dwellings, hard surfaces and details of the window reveals
- (iv) Approval of levels
- (v) All boundary treatments, to include boundary walls to the plot boundaries adjoining the highway (as shown on the plans) and retention of the boundary wall to 19 Sidmouth Avenue
- (vi) Approval of measures to secure the existing building following demolition of the extension
- (vii) Provision Landscaping
- (viii) Retention and protection of all trees shown to be retained
- (ix) Demolition/construction activity to be limited to reasonable hours
- (x) Noise assessment indicating any mitigation measures required
- (xi) Electric Vehicle Charging
- (xii) Importation of soil or soil forming material
- (xiii) of access and parking prior to occupation
- (xiv) No-dig construction and no levels changes to the driveway to unit 1 where it lies in the RPA of trees within Station Walks
- (xv) The garages to units 3 and 4 are to be retained for parking of vehicles and cycles.
- (xvi) Provision of an additional parking space for Unit 2.

**10. 5 BOGGS COTTAGE, KEELE. 14/00036/207C3**

The Chair was disappointed that this was still ongoing and suggested that a further letter of protest be sent to the Planning Inspectorate, signed by the Chair of the Planning Committee and the Portfolio Holder for Planning and Growth.

Councillor Proctor asked that it be the 'strongest possible' letter.

Councillor Simon Tagg moved a further recommendation to bring a report back to the February meeting. This was seconded by the Chair.

- Resolved:**
- (i) That the information be received.
  - (ii) That a further update be provided to Planning Committee in two months.
  - (iii) That a letter be sent to the Planning Inspectorate expressing the Council's concerns.



**11. LAND AT DODDLEPOOL, BETLEY. 17/00186/207C2**

Councillor Simon Tagg moved a further recommendation to bring a report back to the February meeting. This was seconded by the Chair.

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

**12. APPEAL DECISION - 61 OAKDENE AVENUE, WOLSTANTON, NEWCASTLE. 19/00136/FUL**

**Resolved:** That the appeal decision be noted

**13. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - TEMPLAR WINDOW, ST JOHN'S CHURCH, KEELE (REF: 19/20006/HBG) AND CHURCHYARD WALL, ST JAMES' CHURCH AUDLEY (REF: 19/20007/HBG)**

*Councillor Jones took no part in the discussions regarding recommendation (i)*

**Resolved:** That the following grants are approved:-

- (i) £1,584 Historic Building Grant be given towards the restoration of the stained glass window at St Johns Church, Keele, subject to the appropriate standard conditions and a condition to ensure that any glass protection systems are in line with current research.
- (ii) £5,000 Historic Building Grant be given to repoint a stone section and rebuild sections of the churchyard wall at St James Church, Audley subject to the appropriate standard conditions

**14. MID-YEAR DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2019/2020**

The Interim Head of Planning, Sim Manley introduced the report advising that there was a slight difference to the criteria as it now included the four national indicators shown in the table at page 70 of the agenda. Members were advised Members that if the report was brought to the Planning Committee every six months it was crucial to include the four special measures.

Councillor Simon Tagg stated that he was pleased to see that the Council was on target and thanked Mr Manley for his work. Members echoed Councillor Tagg's comments.

The Chair thanked Mr Manley and informed the Committee that Mr Manley was full of praise for all officers of the Planning Department.

**Resolved:** (i) That the report be received  
(ii) That the Head of Planning and the Development Manager seek to maintain and improve performance of the

Development Management team (including the technical support team) to meet the targets set out in the Planning Service Plan for 2019/20

- (iii) That the next 'Development Management Performance Report' be submitted to Committee around June 2020 reporting on performance for the complete year 2019/20

**15. URGENT BUSINESS**

There was no Urgent Business.

**Chair**

Meeting concluded at 7.40 pm

**LAND OFF LAMPHOUSE WAY, WOLSTANTON**  
**STAFFORDSHIRE COUNTY COUNCIL**

**19/00301/OUT**

The application is a hybrid planning application for;

- a) full planning permission for earthworks associated with the re-profiling of the existing site levels and the creation of development plateaus and associated drainage works; and
- b) outline planning permission for the development of 64 residential dwellinghouses and associated new access. Vehicular access from the highway network into and from the site is for consideration as part of this application with all other matters (internal access arrangements, appearance, landscaping, layout and scale) reserved for subsequent approval.

The application site lies within the major urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 1.39 hectares.

Access to the site is proposed off Lamphouse Way.

**The 13 week period for the determination of this application expired on the 4<sup>th</sup> November but the applicant has agreed an extension of time to the statutory determination period to the 13<sup>th</sup> January 2020.**

## **RECOMMENDATION**

**A) Subject to the applicant first entering into a Section 106 agreement by the 1<sup>st</sup> April 2020, or any other legal mechanism as is appropriate, that secures a residential travel plan monitoring fee of £6,895 (index linked) a financial contribution of £189,000 (index linked) towards the improvement and maintenance of the public open space at Bradwell Lodge Park and a review mechanism of the scheme's ability to make a more or fully policy compliant contribution to public open space and/ or affordable housing, if the development is not substantially commenced within 24 months from the date of the decision, and the payment of such a contribution if then found financially viable,**

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

- 1. Time limit for the implementation of earthworks, the submission of applications for approval of reserved matters and the commencement of development.**
- 2. Approved plans**
- 3. Construction environmental and traffic management plan for the full and outline applications**
- 4. Provision of access and visibility splays**
- 5. Revised Travel Plan Framework**
- 6. A highway survey and mitigation measures**
- 7. Prior approval of a construction phase tree protection plan**
- 8. Prior approval of an Arboricultural Method statement**
- 9. Reserved matters application to include replacement tree planting**
- 10. Reserved matters application to include Independent Design Review**
- 11. Submission and approval of retaining wall details**
- 12. Submission and approval of a sustainable drainage strategy**
- 13. Prior approval of a foul drainage plan**
- 14. Waste and storage collection arrangements**
- 15. Design measures to restrict impact on noise levels**
- 16. Land contamination investigations and mitigation measures**
- 17. Reserved matters application to include wildlife and habitat enhancements**

**B) Should the above Section 106 obligations not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured, the development would fail to ensure it achieves sustainable development outcomes, the public open space impacts of the development would at least in part not be met, and there would not be an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of a policy compliant financial contribution towards public open space, affordable housing and travel plan monitoring; or, if he considers it appropriate, to extend the period of time within which the obligations can be secured.**

## **Reason for Recommendation**

The proposed earthworks and re-profiling of the land are considered acceptable subject to conditions and the principle of a residential development on the land in this sustainable location is also considered acceptable. The proposed access arrangements to serve up to 64 dwellings on the site have been demonstrated to be appropriate subject to conditions and other mitigation measures can be secured by condition to ensure that no significant harm is caused to adjacent residential properties and future occupiers of dwellings on the site.

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

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

Officers of the Authority have requested further information throughout the application process and the applicant has provided amended and additional information, including independent financial viability appraisal information.

### **Key Issues**

The application is a hybrid application for full planning permission for earthworks associated with the re-profiling of the existing site levels and the creation of development plateaus and associated drainage works; and outline planning permission for 64 residential dwellinghouses and the associated new access. Vehicular access from the highway network into and from the site is for consideration as part of the outline application with all other matters (internal access arrangements, appearance, landscaping, layout and scale) reserved for subsequent approval.

The application site lies within the major urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 1.39 hectares.

Access to the site is proposed off Lamphouse Way.

The proposed earthworks would allow plateaus to be created on the site which would enable a residential development to proceed on the land. The re-profiling of the land via a cut and fill balance should result in no material being removed from the site. Various technical reports have been submitted to support the application, including a Phase 2 Site Investigation, which conclude that there are no fundamental concerns associated with contaminated land, coal mining legacy or land stability, subject to conditions. In light of the above, the main issues for consideration in the determination of this application are:-

1. The principle of residential development on the site,
2. The impact of the development on highway safety,
3. The design and impact of the development on the visual amenity of the area,
4. The impact of the development on existing and proposed residential amenity levels,
5. Planning obligations and financial viability
6. Other matters

#### **1. The principle of residential development on the site**

1.1 The application site is a vacant piece of land within the urban area of Wolstanton and the proposed residential development would extend an existing residential development off Lamphouse Way, previously known as Wulstan Grange.

1.2 The land was previously set aside as school playing field for Ellison Primary school but the school has expanded on its exiting site.

1.3 Sport England do not object to the application and the land is not recognised as an area of public open space. The land is overgrown private land which is fenced off and has very limited public amenity value.

1.4 NLP 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.

1.5 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.

1.6 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.

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

1.8 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, public transport and employment opportunities. On this basis, whilst it does not meet the definition of previously developed land, the starting point must be one of a presumption in favour of residential development unless any adverse impacts of the development significantly and demonstrably outweigh the benefits of the proposal.

## 2. The impact of the development on highway safety

2.1 This hybrid planning application contains two elements a) full planning permission for earthworks associated with the re-profiling of the existing site levels and b) outline planning permission for 64 residential dwellinghouses and its associated new access arrangements.

2.2 Access to the site is via Lamphouse Way which is a single carriageway, residential cul-de-sac that leads off Great Row View and then Grange Lane in Wolstanton.

2.3 A transport statement has been submitted to support the application which identifies that the re-profiling of the existing site levels would require associated HGV vehicles and machinery to be transported to the site. However, the works are self-contained within the site and the delivery of machinery necessary to carry out the works would only occur once. Once the works are completed the machinery will be transported off the site. Therefore, whilst the HGV movements would be required to use the residential streets, the likely impact on the highway network and highway safety would be minimal. A condition to secure an appropriate construction traffic management plan is recommended to further minimise any impact.

2.4 In terms of the outline part of the scheme (for 64 new residential units), access is a matter for approval at this stage and details have been submitted. The submitted details show a single point of access off Lamphouse Way.

2.5 The submitted transport statement concludes that the neighbouring roads are constructed to a design standard and width that would be appropriate to accommodate the additional traffic generated by the proposed scheme. The submitted details also show that the new access point can be constructed to an acceptable standard in terms of its width, swept path and visibility. A residential framework travel plan has been submitted which seeks to demonstrate how car trips can be reduced by supporting more sustainable forms of travel.

2.6 Paragraph 108 of the NPPF states that safe and suitable access to a site shall be achieved for all users and paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development would be severe.

2.7 A number of objections to the application have been received which primarily focus on highway safety concerns, in terms of the design standard of existing roads and the problems that additional vehicles will cause. They also highlight existing car parking problems on neighbouring roads and the impact of construction vehicles, refuse vehicles and emergency vehicles.

2.8 The Highways Authority (HA) has raised no objections to the proposed access arrangements and the level of additional vehicle trips that 64 new residential properties would have on the highway network. Likewise, Highways England have also raised no objections on the grounds that the impact of the development on the nearby A500 would not be significant.

2.9 Whilst the Council's Waste Management Section has raised concerns about the location of bin storage and collections arrangements they have not raised concerns with the design and location of the proposed access arrangements or identified existing issues on the surrounding highway network. Therefore it is assumed that they have no concerns regarding the proposed access arrangements.

2.9 HA has requested a number of conditions which would ensure that the access is constructed to an acceptable standard and to ensure that the impact of the proposed development is mitigated after construction. A construction management plan is necessary in order to mitigate the impact of earthworks and the construction of a residential scheme on the land. In this respect, it is accepted that construction traffic will have to travel through an existing residential estate but this is not an uncommon scenario in an urban location and a management plan will reduce the level of impact.

2.10 The layout and disposition of buildings and car parking is reserved for subsequent approval but the indicative details demonstrate that the level of off street car parking is acceptable for this sustainable urban area. A condition to secure the travel plan and a timetable for its implementation is also requested and supported, along with a travel plan monitoring fee. Civil enforcement would need to be taken regarding any dangerous on street car parking on existing residential roads.

2.10 The application site represents a sustainable location for new housing with good links to the surrounding area which will encourage walking, cycling and use of public transport. The impact of the development can be mitigated through conditions and the proposed development is unlikely to result in severe highway safety implications. The application could therefore not be said to be contrary to the guidance and requirements of the NPPF or policies of the development plan.

### 3. The design and impact of the development on the visual amenity of the area

3.1 The application site appears as a vacant piece of land in an otherwise urban residential area.

3.2 The site slopes up from north to south with parts of the site being steeply sloped.

3.3 Full planning permission is sought to re-profile the land and these works involve large areas of cut and fill that seek to soften the slope of the land and create development plateaus so that a residential scheme of 64 dwellings can be proposed.

3.4 The application is supported by plans which demonstrate the existing and proposed levels, site sections and topographical surveys which illustrate the extent of the proposed earthworks and re-profiling of the land.

3.5 There are existing residential properties beyond the southern and western boundaries of the site and the cut and fill works will result in the removal of the steep slope towards the southern boundary of the site. This would result in the site sitting significantly below neighbouring land beyond the southern and western boundaries which is acceptable and in all other respects the slope of the site would be softened.

3.6 The only matter for approval as part of the outline application is access. The appearance, layout, including internal access roads, scale and landscaping of the development are all matters reserved for subsequent approval. However, an illustrative layout plan has been submitted in an attempt to demonstrate that 64 residential units can be proposed on the site. These units would be a mix of 2 storey detached, semi-detached and terrace dwellings, along with a large block of 4 storey apartments shown in the north-eastern corner of the site.

3.7 Paragraph 124 of the NPPF states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 127 of the Framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments

should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

3.8 The illustrative layout demonstrates that the proposed development of 64 residential units can be accommodated on the land. However, the submitted layout shows large areas of frontage car parking which, if approved, would dominate the development and harm its appearance. The 4 storey block of flats are also directly adjacent to the steep slope near to the northern boundary which would not allow circulation around the building or amenity space or its occupants. Your officers consider that significant improvements to the layout are required before it can be accepted as a sustainable design that meets the requirements of the paragraphs 124 and 127 of the NPPF. It is considered that these design improvements can be achieved as part of a reserved matters submission for layout and landscaping. The illustrative scale and appearance of the buildings are considered appropriate and it has been demonstrated that an acceptable design could be achieved in this respect although it is considered that any scheme presented as part of a reserved matters submission for layout, appearance, scale and landscaping should have been the subject of independent design review. This should be secured by an appropriately worded condition.

3.9 The location of the site adjacent to the A500 is likely to result in a 3.5 metre high acoustic fence on the northern and eastern boundaries. However, there is a bank of trees between the site and the A500 and these trees would act as a visual buffer between the development and the wider landscape. Tree protection measures will be necessary to ensure that these trees are not lost during the earthworks. A condition to secure replacement trees is also justified but a soft landscaping scheme is not necessary at this stage because landscaping is a reserved matter.

3.10 The scheme would also need to incorporate an acceptable sustainable urban drainage scheme (SuDS) and the submitted details suggest that this can be accommodated in the northern edge of the site. This part of the site is particularly steep but the LLFA has raised no objections subject to a more detailed scheme being secured by condition.

3.11 In summary, it is accepted that the re-profiling of the land and a subsequent residential development on the land can be proposed without it resulting in a significant harm to the visual amenity of the landscape.

#### 4.0 The impact of the development on existing and proposed residential amenity levels

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

4.2 The application site is located on the edge of an urban residential area but directly adjacent to the A500 and West Coast Main Line railway, which are both beyond the eastern boundary.

4.3 The application has been supported by a noise assessment report (NAR) which has been undertaken to identify key noise sources in the vicinity of the site which may have the potential to impact upon the future occupiers of the proposed development.

4.4 As indicated above there is an embankment of trees between the application site and the A500 with the site being significantly elevated above it. The submitted noise report concludes that without noise mitigation measures the impact of noise would be harmful to the future occupiers of the proposed dwellings. The noise mitigation measures are likely to be in the form of a 3.5 metre high acoustic fence on the northern and eastern boundary. On this basis the Environmental Health Division (EHD) advises that a condition which secures appropriate mitigation measures to be implemented is required. A similar condition is also requested from Highways England in order to protect their interests.

4.5 In terms of air quality impact the site is located close to the Porthill/Maybank/Wolstanton air quality management area. However, the submitted Air Quality Impact Assessment concludes that 'negligible' air quality impact is predicted and EHD raises no objections in this respect.



4.6 EHD have also requested the submission and approval of a construction management plan in order to protect residential amenity levels of neighbouring occupiers from impacts of noise, dust and disturbance during construction. This is also considered necessary to make the development acceptable.

4.7 The indicative layout plans demonstrate that 64 dwellings on the site can be proposed which would not result in significant harm to neighbouring residential amenity standards. It is also accepted that the proposed re-profiling works are acceptable. However, it is acknowledged that due to the density of the proposed development the final design and layout will need to be carefully designed in order for a sustainable form of development to be achieved which would comply with the Council's SPG – Space Around Dwellings and the NPPF.

## 5. Planning obligations and financial viability

5.1 The proposed development is for up to 64 residential units, consisting of a mix of 1 and 2 bed apartments and 2, 3 and 4 bed houses.

5.2 Certain contributions are required to make the development policy compliant and acceptable. These are the provision of 25% on-site affordable housing and a contribution of £353,180 towards off-site public open space. A travel plan monitoring fee of £6,895 is also requested.

5.3 The Education Authority has indicated that there are projected to be a sufficient number of school places in the catchment area to mitigate the impact of this development at both primary and secondary phases of education and a financial contribution towards education provision is not justified.

5.4 CSS Policy CSP6 states that residential development within the urban area, on sites of 15 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. On this basis the scheme will need to provide 16 affordable housing units within the development.

5.5 LDS have requested a financial contribution of £5,579 per unit towards the improvement and maintenance of public open space (POS). The contribution towards POS is sought for the refurbishment and improvement of Bradwell Lodge Park, which is approximately 800m away. The overall contribution amount has been reduced to factor in that some of the units will be one bedroom apartments which are not suitable accommodation for families. The requested contribution is the figure set out in paragraph 5.2 above and the request is considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, to be directly related to the development and fairly and reasonably related in scale and kind to the development.

5.6 The applicant has advised that the scheme cannot support the requested policy compliant contributions towards POS and affordable housing and independent financial advice has now been received by the Authority. The report of Butters John Bee (BJB) confirms that the scheme cannot support the policy compliant contributions but that there is a possibility that the scheme could support 15% affordable housing which equates to 10 units or a financial contribution of £189,000 towards POS.

5.7 The NPPF indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised. The scheme does provide benefits, most notably the provision of 64 dwellings in a sustainable urban location. The development would also contribute to housing supply in the Borough and the financial viability appraisal concludes that the scheme can support affordable housing or a financial contribution towards public open space but not both. Therefore, in

this instance the committee will need to decide which of the two requested obligations is necessary to make the development acceptable.

5.8 As advised in paragraph 5.5, LDS has requested a financial contribution towards the refurbishment and improvement of Bradwell Lodge Park which is in need of improvement and these works would include landscaping, resurfacing and the demolition of the existing pavilion. The application site is approximately 800 metres from the park. A contribution towards this POS would mitigate the impact of 64 additional houses on this infrastructure.

5.9 The provision of 10 affordable units would not mitigate the impact of the development but would be a planning gain or benefit to the local area.

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

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

5.11 In terms of the preference for affordable housing or POS improvements the Council has no agreed formal "hierarchy of need" in its Developer Contributions SPD. The NPPF also offers no such preference.

5.12 In this case, your Officer would suggest that the need for POS improvements would be the priority and following the comments of LDS regarding the existing facilities at Bradwell Lodge Park it is considered that in this case the entire financial contribution that the scheme can support, should be used to improve and maintain this park, instead of providing affordable housing.

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

## 6.0 Other matters

6.1 A number of objections have been received on the grounds that the site is popular with wildlife including bats and birds. However, an extended Phase 1 Habitat Survey of the site has been conducted and no protected species were evident on the site. Therefore, it is not considered that an objection on the grounds that the proposed development would have a negative impact on wildlife or protected species could be sustained. A condition which secures appropriate ecological enhancements is considered appropriate.

6.2 Objections have also been raised regarding loss of a view and devaluation of property prices. These are not material planning considerations in the determination of a planning application. Likewise matters of construction standards is covered by building regulations and guidance and it is not appropriate to consider this matter further.

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

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

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

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

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

[Planning Practice Guidance](#) (2018 as updated)

[Supplementary Planning Guidance/Documents](#)

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD](#) (2009)

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

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

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

#### Relevant Planning History

A hybrid planning application was granted planning permission at appeal in 2001 on the adjacent land, reference 99/00918/FUL, for a new link road and residential development. A subsequent reserved matters application for the residential development (245 units) was permitted in 2002, reference 01/00943/REM. A series of other applications followed for the substitution of house types on certain plots.

#### Views of Consultees

The **Highways Authority** raises no objections subject to conditions:

*Full planning application recommended condition;*

- Construction Management Plan

*Outline planning application recommended conditions;*

- Access and visibility.
- Layout, surfacing and surface water drainage,
- Residential Framework Travel Plan,
- Joint highway survey by the Developer and the Highway Authority before and after construction,
- Construction Management Plan

The **Environmental Health Division** raises no objections subject to conditions related to the following;

- Construction Environmental Management Plan,
- Design measures to achieve internal and external noise levels,
- Waste and storage collections arrangements,
- Contaminated land.

**Highways England** raises no objections subject to a condition which secures a noise mitigation strategy to reduce the impact on future occupiers of the development from the adjacent A500. They also set out that the impact of the proposed development on the surrounding road network will be minimal.

Staffordshire County Council as the **Mineral and Waste Planning Authority** advises that they have no comments to make on eh application.

Staffordshire County Council as **Lead Local Flood Authority** indicate that they are satisfied that an acceptable SUDS design could be achieved within the proposed development but request a condition which secures a more detailed surface water drainage scheme prior to any works commencing on site.

The **Waste Management Section** raises concerns with the bin storage arrangements for blocks 17-21, 22-24 and 40-45.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** advises that they have no issues with the broad proposals and the submission recognises the importance of addressing crime, disorder and community safety. Further design advice is set out and can be included as an informative on the decision notice.

**Severn Trent Water** raises no objections subject to a condition which secures drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.

The **Housing Strategy Section** reiterate the requirements as set out in our Affordable Housing (Supplementary Planning Documents) SPD which requires 25% on site affordable housing (60% social rented and 40% shared ownership), the type of dwellings will need to be agreed, the standard of construction should be the same as the open market dwellings, the affordable housing should not be clustered together and the provision is subject to financial viability.

**Stoke-on-Trent City Council** indicates that they have no comments to make on this application.

The **Coal Authority** raises no objections on the basis that the site does not fall within the defined Development High Risk Area and a Coal Mining Risk Assessment does not need to be submitted. Standing Advice is advised.

The **Education Authority** advises that there are projected to be a sufficient number of school places to mitigate the impact of this development at both primary and secondary phases of education.

**Sport England** raises no objections.

Comments were also invited from the **Environment Agency, Staffordshire Wildlife Trust** and **Newcastle East Locality Action Partnership** but in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

### Representations

44 representations have been received raising the following objections and concerns;

- It represents overdevelopment of the site in an over populated area,
- The houses would put additional strain on local amenities such as health services and schools,
- The existing access arrangements on to Grange Lane are poor,
- Existing roads, pavements and drainage are not to an acceptable standard,
- It would cause additional congestion issues on the highway,
- On street car parking already causes an issue,
- The roads on the estate are not wide enough for construction vehicles,
- HGV movements would cause health and safety concerns for residents and children,
- Insufficient car parking provision is shown,
- Concerns over the instability of the land,
- There will be a negative impact on wildlife,
- Residents would suffer noise and air pollution
- Loss of a green space which residents enjoy,
- Loss of a view and sunlight,
- Other land should be built on and money spent to improve existing infrastructure,
- Off site public footpath improvements should be proposed,
- Decrease in property value,
- The area already has too many flats and houses,
- The land should be put to better use,
- The existing park should be upgraded,
- The site was previously earmarked as playing fields for the local primary school,
- Three storey flats would not be in keeping with the area,
- Overshadowing of neighbouring properties,
- Construction activities should be kept to a minimum if the development is approved.

### Applicant's/Agent's submission

All of the application documents can be viewed on the Council's website using the following link:  
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00301/OUT>

### Background papers

Planning files referred to

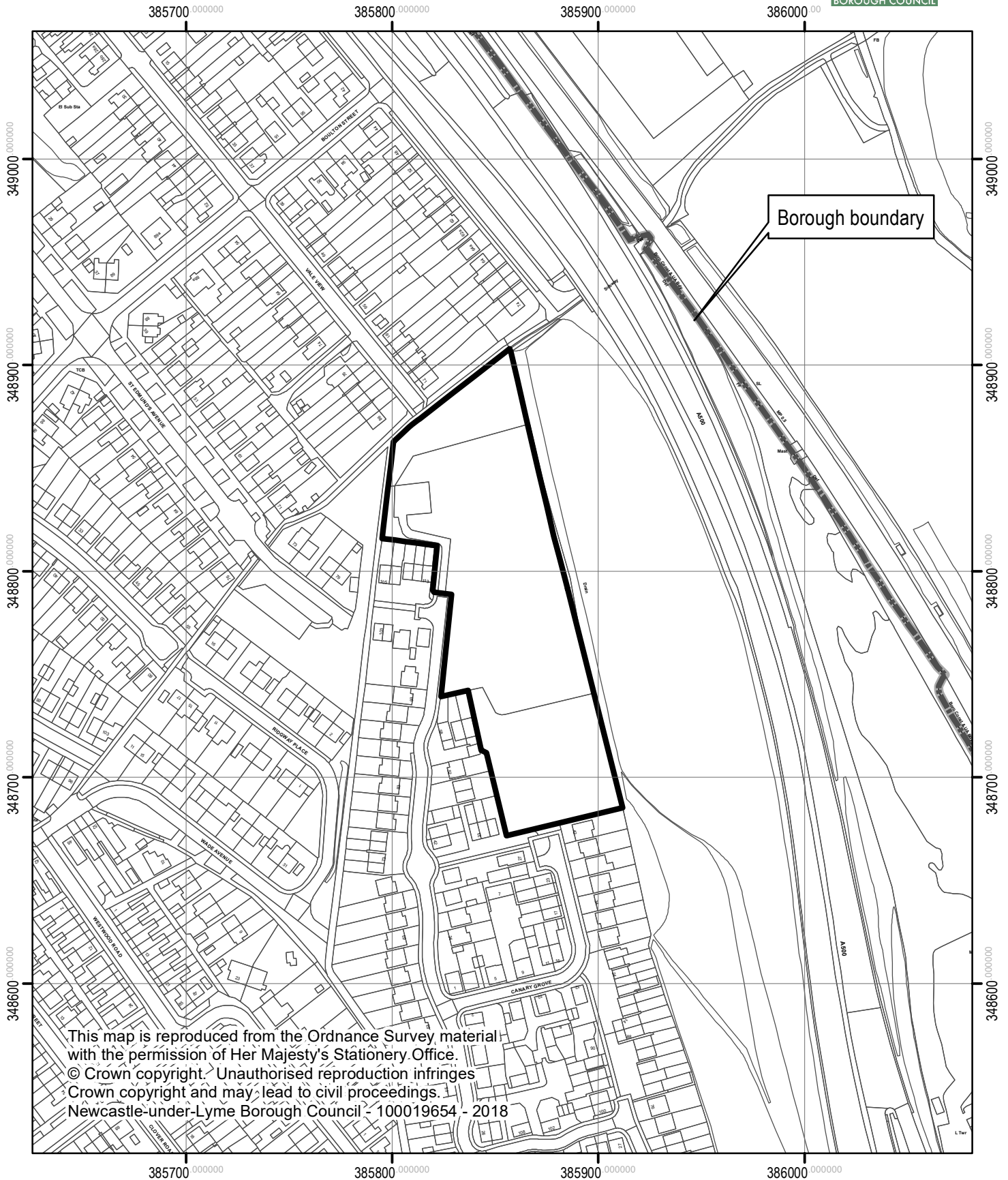
Planning Documents referred to

### Date report prepared

17<sup>th</sup> December 2019

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# Land off Lamphouse Way Wolstanton



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**DIESEL MARINE INTERNATIONAL LTD, GARNER STREET BUSINESS PARK**

**DIESEL MARINE INTERNATIONAL LTD**

**19/00805/FUL**

The application seeks retrospective planning permission for a temporary structure for machining and fabrication, proposed to be in use for a total of 5 years.

The site is located on the Garner Street Business Park in the urban area of Newcastle, as indicated on the Local Development Framework Proposals Map.

**The 13 week period for the determination of this application expires on the 13<sup>th</sup> January 2020.**

**RECOMMENDATIONS**

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

- 1. Approved plans**
- 2. Five year temporary period**
- 3. Cycle parking**

**Reason for Recommendation**

Policies of the Core Spatial Strategy support proposals for employment provision. The design of the building is acceptable in the context of the existing surroundings and there would be no impact on highway safety. The proposal represents a sustainable form of development which complies with the guidance and requirements of the National Planning Policy Framework.

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

The development is considered to be a sustainable form of development in accordance with the National Planning Policy Framework.

**Key Issues**

The application seeks retrospective planning permission for a temporary structure for machining and fabrication, proposed to be in use for a total of 5 years. The site is located on the Garner Street Business Park in the urban area of Newcastle, as indicated on the Local Development Framework Proposals Map.

The key issues in the determination of this planning application are considered to be;

- Principle of the proposed development,
- Design and appearance, and
- Car parking and the impact on highway safety.

**Principle of the proposed development**

Paragraph 80 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

At Paragraph 82 it indicates that planning decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.

Policy SP1 of the Core Spatial Strategy indicates 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. It also states that employment provision will be focused towards sites accessible to and within the North Staffordshire Regeneration Zone. Policy SP2 of the CSS also indicates that economic development should capitalise on North Staffordshire's potentially strong geographical position, its people and its productive asset base.

The application site is within the established Garner Street Business Park. The development provides further business and employment opportunities on an established industrial estate in a sustainable location. It also promotes sustainable economic growth in accordance with Policy SP1 of the CSS and the guidance of the NPPF. The principle of this application should therefore be supported.

#### Design and appearance

Paragraph 124 of the Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. It goes on to say at paragraph 130, that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres.

The Urban Design Supplementary Planning Document indicates at Policy E3 that business development should be designed to contribute towards improving the character and quality of the area.

The structure measures 80m x 15m in plan with a maximum height of 6.3m. The materials comprise grey composite horizontal cladding panels with a white pvc roof covering. There are a number of other substantial 2 and 3-storey buildings on the site and the scale and the design of the building is considered appropriate in the context of an established industrial estate. There is mature landscaping along the boundaries and the building does not harm the visual amenity of the area. The development is therefore considered to comply with Policy CSP1 of the CSS and the guidance and requirements of the NPPF.

#### Is the proposal acceptable in terms of highway safety?

The NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. At paragraph 106 the Framework states that maximum parking standards for residential and non-residential development should only be set where there is clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport.

Saved Policy T16 of the NLP states that development which provides significantly less parking than the maximum specified levels it refers to 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.

There are approximately 95 parking spaces on the site which are considered to be adequate and the Highway Authority raises no objections subject to a condition requiring the provision of secure weatherproof parking for 5 cycles. Although a temporary consent is requested, 5 years is a reasonably long period of time and therefore such a condition to secure such provision is considered

reasonable and necessary in the interests of sustainability and to reduce the dependency on the motor vehicle.

It is not considered that the application raises any highway safety issues.

## APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP2: Spatial Principles of Economic Development  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change

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

Policy T16: Development – General Parking Requirements

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

[National Planning Policy](#)

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

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

[Supplementary Planning Guidance/Documents](#)

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

[Relevant Planning History](#)

None relevant.

[Views of Consultees](#)

The **Highway Authority** has no objections subject to a condition requiring details of secure weatherproof parking for 5 cycles.

The **Environmental Health Division** makes no comments on the application.

The **Landscape Development Section** raises no objection and requests that trees that surround the site be retained and protected in the event of future works.

The **Environment Agency** raises no objections.

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

No comments have been received from **Stoke City Council** and given that the date for comments has passed, it must be assumed that they have no comments to make.

[Representations](#)

None received.

[Applicant's/Agent's submission](#)

The submitted plans are available for inspection at Castle House and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00805/FUL>

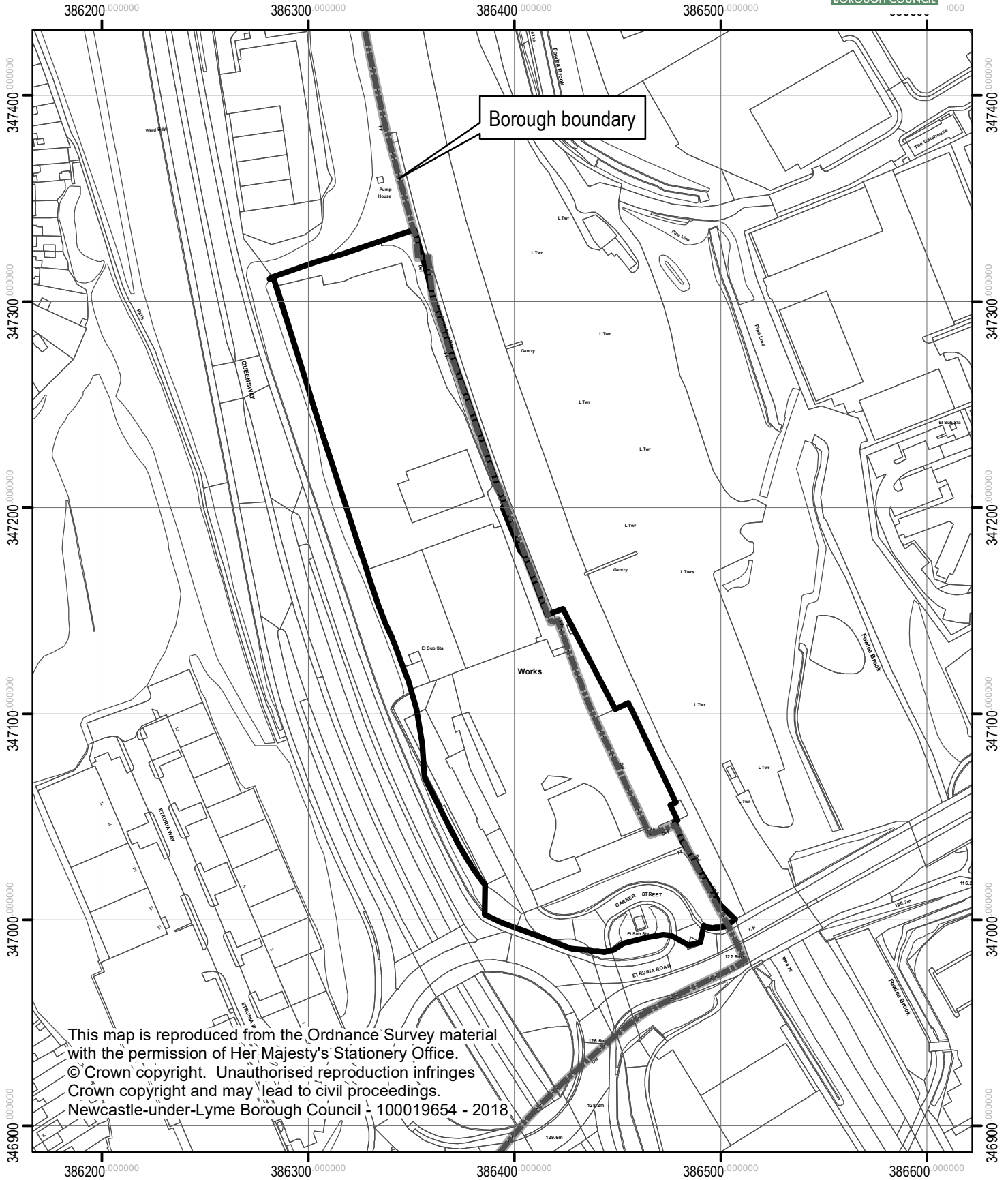
Background papers

Planning files referred to  
Planning Documents referred to

Date report prepared

13<sup>th</sup> December 2019

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**CHATTERLEY VALLEY DEVELOPMENT SITE, PEACOCK HAY ROAD**  
**HARWORTH GROUP PLC**

**19/00846/OUT**

The application seeks to remove or vary a number of conditions of 18/00736/OUT, a hybrid planning permission for:-

- A.** full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- B.** outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

The application seeks the following:

- Removal of condition B23 which requires the provision of pedestrian and cycleway enhancements, including cycle links to Bathpool Park, in accordance with details to be approved.
- Variation of condition A1 by removal of the requirement to have completed the earthworks within 18 months of the commencement of the earthworks or by extension of the time period.
- Variation of Conditions A8, B1 and B10 with respect to reference to the Green Infrastructure Strategy.
- Variation of condition B3 (relating to the requirements to submit reserved matters applications) to correct an error.
- Variation of the reason for Condition B25 which restricts the permitted use classes on the plots, by removal of reference to a retail impact assessment.

The Newcastle Local Plan Proposal allocates, at policy E2, the site which measures 44ha, for employment development.

**The 13 week period for the determination of this application expired on the 24<sup>th</sup> January 2020.**

## **RECOMMENDATION**

**PERMIT subject to conditions relating to:**

**1. Vary condition B23 as follows:**

**No building forming part of the development referred to in item (B) shall be occupied until full details of pedestrian and cycleway links/enhancements have been approved, implemented and access provided. Such links/enhancements shall include connections to the existing cycle route at Bathpool Park, the existing cycleway on Reginald Mitchel Way (A527), the canal, and existing cycleway in Bradwell Woods and Newcastle Road unless it has been demonstrated that it is not feasible to do so.**

**2. Vary condition A1 as follows:**

**The development referred to in item (A) must be begun not later than the expiration of FIVE years beginning with the date of this permission and shall be completed within FIVE years of the date of commencement of such works, such commencement to be notified beforehand to the Local Planning Authority in writing.**

**3. Vary conditions A8 and B10 so that they specify that the scheme shall accord with the principles of the Green Infrastructure Strategy.**

**4. Vary condition B3 as follows:**

**Plans and particulars of the reserved matters referred to in condition B2 above, (relating to the appearance and scale of any buildings to be erected on each plot or sub-plot, landscaping of each plot or sub-plot, of each plot or sub-plot layout and access arrangements to each plot or sub-plot from the approved road network) relating to the site as a whole or 4 any plot or sub-plot, shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of any that part of the development referred to in item (B) and shall be carried out as approved.**

**5. Vary the wording of the reason for condition B25 as follows:**

**Having regard to the identification of this site as a Regional Investment Site and Premium Employment Site, and in accordance with policy SP1 and ASP5 the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and policy E2 of the Newcastle-under-Lyme Local Plan 2011, to ensure the uses are demonstrably consistent with the role and objectives of this Premium Employment Site; and in recognition that B1(a) is a main town centre use and that the construction of such development without the undertaking of a sequential assessment if required by policy, would be contrary to the aims and objectives of the National Planning Policy Framework 2019.**

**6. All other conditions of 19/00846/OUT as they continue to apply to the development**

### **Reason for Recommendation**

In the light of the policy support for the provision of such enhancements and the absence of any basis upon which to conclude that they could not be achieved, the removal of condition B23 as proposed is not supported. It is, however, considered appropriate to slightly amend the wording of the condition. It is appropriate and acceptable to amend all the other conditions as proposed with the exception of condition B1 which does not specify that the development is carried out in accordance with the Green Infrastructure Strategy and therefore does not require amendment as suggested by the applicant.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

### **Key Issues**

1.1 The application, under section 73 of the Town and Country Planning Act 1990, seeks to remove or vary a number of conditions of planning permission 19/00846/OUT which granted:

- A. full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- B. outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

1.2 In deciding this application the local planning authority must only consider the conditions that are the subject of the application, and should not completely reconsider the application.

### **2.0 Removal of condition B23**

2.1 The condition is worded as follows:

*No building forming part of the development referred to in item (B) shall be occupied until full details of pedestrian and cycleway enhancements, which shall include cycle links to Bathpool Park, the existing cycleway on Reginald Mitchel Way, the canal, and existing cycleway in Bradwell Woods and Newcastle Road, have been approved, implemented and access provided.*

2.2 The applicant argues that the substantial works to pedestrian and cycleway routes in the surrounding area as required by the condition, including works to widen the railway bridge on Peacock Hay Road, are not necessary to enable the development to be acceptable, are not precise and are not within the gift of the applicant to deliver. The applicant argues that the condition therefore fails to meet the tests sets out at paragraph 55 of the NPPF. In addition they say that the Highway Authority did not raise such requirements in order to make the development acceptable.

2.3 The applicant points out that the proposal already includes improved linkages to the surrounding area. The links to the A527 are already proposed and acceptable and there are also internal enhancement connections proposed to the underpass, which would improve connections to Bradwell Wood. The applicant considers, therefore, that the condition is unnecessary.

2.4 Therefore the concerns relate specifically to the requirement to include cycle links to Bathpool Park.

2.5 The NPPF indicates at paragraph 108 that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safety and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

2.6 At paragraph 110 it states that applications for development should:

- give priority first to pedestrian and cycle movements, both with the scheme and with neighbouring areas and second, as far as possible, to facilitating access to high quality public

transport, with layouts that maximise the catchment area for bus or other transport services, and appropriate facilities that encourage public transport use;

- address the needs of people with disabilities and reduced mobility in relation to all modes of transport,
- create places that are safe, secure and attractive.
- allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

2.7 Saved Policy E2 of the Local Plan includes a list of requirements that must be met for the employment development at Chatterley Valley, including the potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

2.8 Notwithstanding, as highlighted by the applicant, that the Highway Authority did not specify that pedestrian and cycleway enhancement over and above those proposed there is strong policy support for this requirement. There is already a pedestrian and cycle route through Bathpool Park which forms part of the Sustrans route NCN555 and provides access to the large residential population of Kidsgrove. To ensure that access to the site by non-car modes is fully exploited so that employees that live within the catchment area of the development site have a safe route to walk and/or cycle to and from work it is important that there is a safe and suitable link to Bathpool Park in addition to the other route enhancements that the applicant is willing to provide. This could potentially be achieved by providing a route through woodland forming part of Bathpool Park to the south west of the railway line, joining the existing route at the point where it passes under the railway line. Alternatively it may be possible to provide the required enhancement along Peacock Hay Road from the site to the Bathpool Park carpark other than for the relatively short stretch where the road crosses over the railway line.

2.9 In the light of the policy support for the provision of such enhancements and the absence of any basis upon which to conclude that they could not be achieved, the removal of condition B23 as proposed is not supported. It is, however, considered appropriate to slightly amend the wording of the condition.

### **3.0 Variation of condition A1**

3.1 The condition is worded as follows:

*The development referred to in item (A) must be begun not later than the expiration of FIVE years beginning with the date of this permission and shall be completed within 18 months of the date of commencement of such works, such commencement to be notified beforehand to the Local Planning Authority in writing.*

3.2 The applicant does not consider that the 18 months is an appropriate timeframe for the completion of the earthworks. The applicant advises that the proposal includes a substantial earthworks programme in order to change the current sloped site to deliver development plateaus on which the proposed buildings can be constructed. When the level of piling of materials reaches a certain point it needs to be overlaid with excess material which would naturally reduce over time. This, it is advised, is essential to ensure the finished ground is suitable for construction, is a process which cannot be quickened and could take up to 5 years. The applicant therefore requests that the time period is either removed or extended.

3.3 The reason for the condition was, in part, to ensure that such works were completed in a prompt manner in the interests of visual amenity and the landscape. That reason remains valid, however in light of the information provided by the applicant it is considered appropriate to extend the period for completion of the works to 5 years from commencement.

### **4.0 Variation of Conditions A8, B1 and B10**

4.1 Such conditions make reference to the submitted Green Infrastructure Strategy which was submitted for illustrative purposes, as it overlays the indicative proposed site layout which could change. The applicant therefore proposes that the wording of the conditions be amended so that it

does not require the development to be carried out in strict accordance with the Strategy but in accordance with the principles of the Strategy. Such changes to conditions A8 and B10 are considered to be acceptable and appropriate. It is not considered necessary to make any changes to condition B1, as this condition sets out what plans were taken into consideration when approving outline planning permission and does not specify that the development shall be carried out in accordance with the listed plans.

### **5.0 Variation of condition B3**

5.1 The condition is worded as follows:

*Plans and particular of the reserved matters referred to in condition B2 above, relating to the appearance and scale of any buildings to be erected on each plot or sub-plot, landscaping of each plot or sub-plot, of each plot or sub-plot layout and access arrangements to each plot or sub-plot from the approved road network, shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of any part of the development referred to in item (B) and shall be carried out as approved*

5.2 The applicant considers that the word layout is in the wrong place and suggest that the text of the condition is reworded as follows;

*Plans and particulars of the reserved matters referred to in condition B2 above, (relating to the appearance and scale of any buildings to be erected on each plot or sub-plot, landscaping of each plot or sub-plot, of each plot or sub-plot layout and access arrangements to each plot or sub-plot from the approved road network) relating to the site as a whole or 4 any plot or sub-plot, shall be submitted to, and approved by, the Local Planning Authority prior to the commencement of any that part of the development referred to in item (B) and shall be carried out as approved.*

5.3 Such a change is considered to be acceptable and appropriate.

### **6.0 Variation of the reason for condition B25**

6.1 The condition restricts the buildings erected on plots C and D to research and development and light industrial uses falling within Class B1(b) and B1(c), or Class B2 of the Use Classes Order. The reason for the condition incorrectly includes that this is in recognition that B1(a) uses, which are not permitted, are main town centre uses and that construction without the undertaking of a retail impact assessment as well as a sequential assessment would be contrary to policy. The requirement to carry out a retail impact assessment only applies to proposals for retail and leisure development outside town centres and as such it was not necessary to make reference to such an assessment in the reason. The omission of the reference to retail impact assessment from the reason is considered to be acceptable and appropriate therefore.

## APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP2: Spatial Principles of Economic Development  
Policy CSP1: Design Quality

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

Policy E2: Chatterley Valley

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

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

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

### **Relevant Planning History**

In 2019 a hybrid planning permission, 18/00736/OUT, was granted for the following:-

- C. full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- D. outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

### **Views of Consultees**

The **Environmental Health Division** indicate that without sustainable transport links to the existing public footpaths and cycle routes, the only feasible means of accessing the site are by road vehicles. Connectivity of the site to the surrounding communities must be achieved through provision of sustainable transport and travel choices including safe and practical links by foot and cycle. These would also contribute towards initiatives in North Staffordshire to address exceedances of national and European air quality related standards and contribute toward overall reductions in air emissions across the area.

The **Economic Regeneration Section** indicate that they are content to accept the modifications to the conditions as proposed.

The **Landscape Development Section** advise that they would consider the provision of a cycleway over land owned by the Borough Council at Bathpool Park.

The views of **Stoke City Council** have been sought but as they have not responded by the due date it is assumed that they have no comments.

### **Representations**

Two representations have been received objecting to the removal of condition B23 as it would deny people living in the large residential areas within the catchment area of the application site the opportunity to walk and cycle on safe and continuous routes and through the application site. The short link to Bathpool Park is absolutely necessary to join the existing cycle network of Stoke-on-Trent and would vastly increase the attractiveness of bike travel to the site since this route forms a north-south spine through the city.

Applicant's/Agent's submission

The application form and plan and supporting information are available for inspection at Castle House and on the website that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00846/OUT>

Background papers

Planning files referred to  
Planning Documents referred to

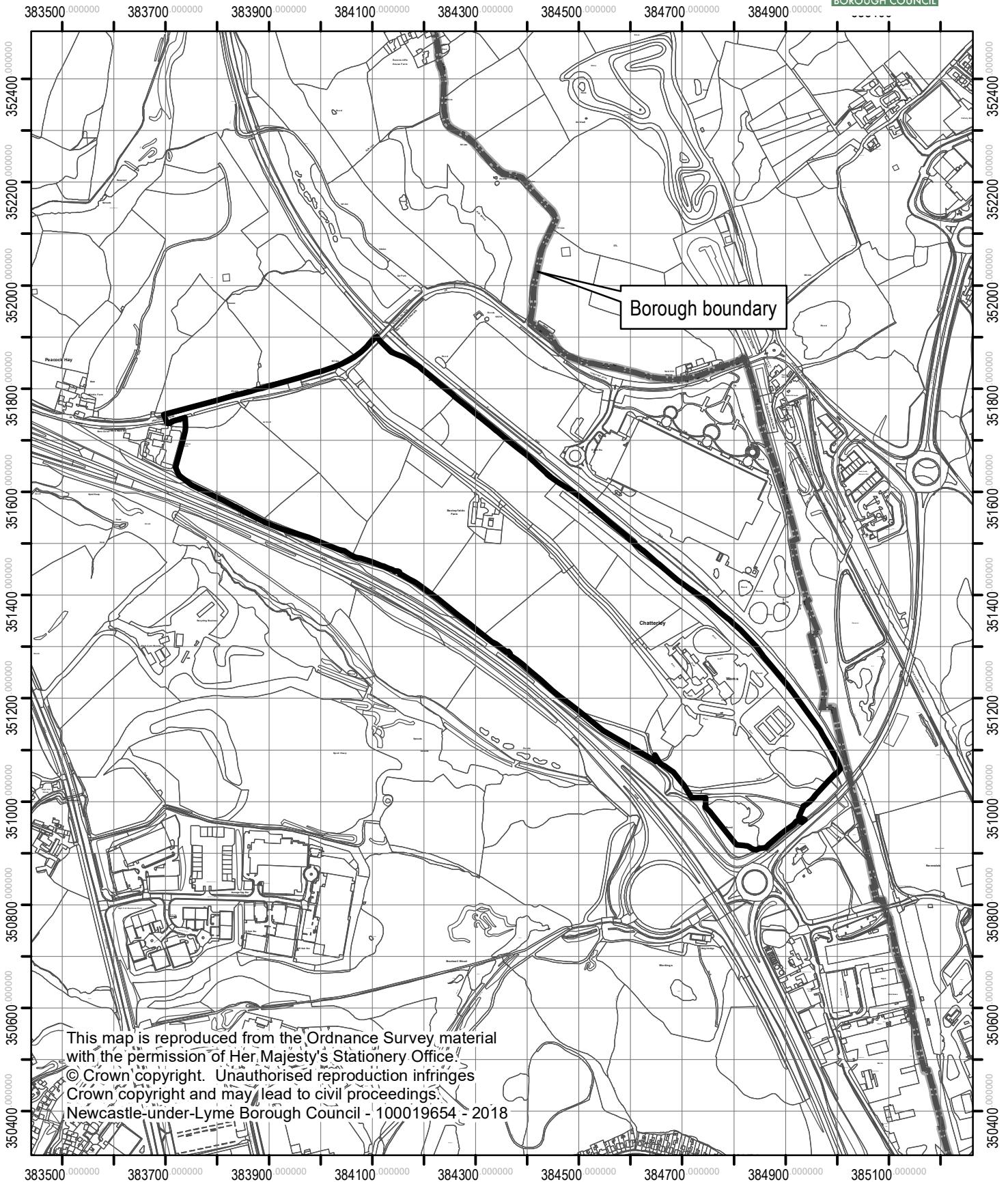
Date report prepared

18<sup>th</sup> December 2019

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Chatterley Valley Development Site,  
Peacock Hay Road, Newcastle-under-Lyme, ST6 4QH.



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**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL DEPOT, KNUTTON LANE**

**NEWCASTLE BOROUGH COUNCIL**

**19/00852/DEEM3**

The application is for partial demolition and reconstruction of an existing building to accommodate new waste transfer working practices and the construction of a new street sweeping bay.

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

**The 8 week period for the determination of this application expires on 6<sup>th</sup> January 2020 but an extension of time to 10<sup>th</sup> January has been agreed.**

**RECOMMENDATION**

**PERMIT subject to conditions relating to:**

- 1. Time Limit**
- 2. Approved plans**
- 3. Materials to match existing**

**Reason for Recommendation**

The proposal raises no issues of impact on the overall appearance of the site, residential amenity or highway safety.

**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.

**Key Issues**

The application is for the demolition and reconstruction of part of an existing building at the Borough Council Depot to accommodate new waste transfer working practices, and the construction of a new street sweeping bay.

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

The Staffordshire and Stoke-on-Trent Joint Waste Local Plan 2010-2026 includes policies for the provision of new waste management facilities but given that this proposal is required simply to accommodate larger vehicles, it is not considered necessary to assess the proposal against such policies. The proposal would not result in an increase in vehicular movements and as such it would not give rise to any concerns regarding highway safety. There would be no impact on residential amenity and therefore the sole issue for consideration is the impact of the proposal on the character and appearance of the area.

The ridge height of a 23m long section of the building would be increased by 0.6m to allow for taller openings to provide access to 3 recycling bays. A new street sweeping bay is proposed to the south of the site. It would measure 9.8m x 8.7m in plan with a mono-pitched roof with a maximum height of 6.7m. The materials would match the existing.

The new street sweeping bay and the increased ridge height of the building would have a very limited impact on the overall appearance of the site when viewed from public vantage points and therefore it is not considered that there would be any adverse impact on the character and appearance of the area.

## **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 ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy  
Policy CSP1: Design Quality

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

Policy T16: Development – General parking requirements  
Policy T18: Development servicing requirements

[Staffordshire and Stoke-on-Trent Waste Local Plan 2010-2026 \(adopted 2013\)](#)

Policy 3.1 General requirements for new and enhanced facilities

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

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

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

[Supplementary Planning Documents/Guidance](#)

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

[Relevant Planning History](#)

15/00615/DEEM3	Proposed materials recycling facility	Approved
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[Views of Consultees](#)

The **Lead Local Flood Authority** has no objection.

The **Environment Agency** has no objections subject to a condition regarding contamination.

No comments have been received from the **Environmental Health Division** and given that the period for comment has passed, it must be assumed that they have no comments to make.

[Representations](#)

None

[Applicant/agent's submission](#)

The submitted plans are available for inspection at the Guildhall and via the following link;  
<https://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00852/DEEM3>

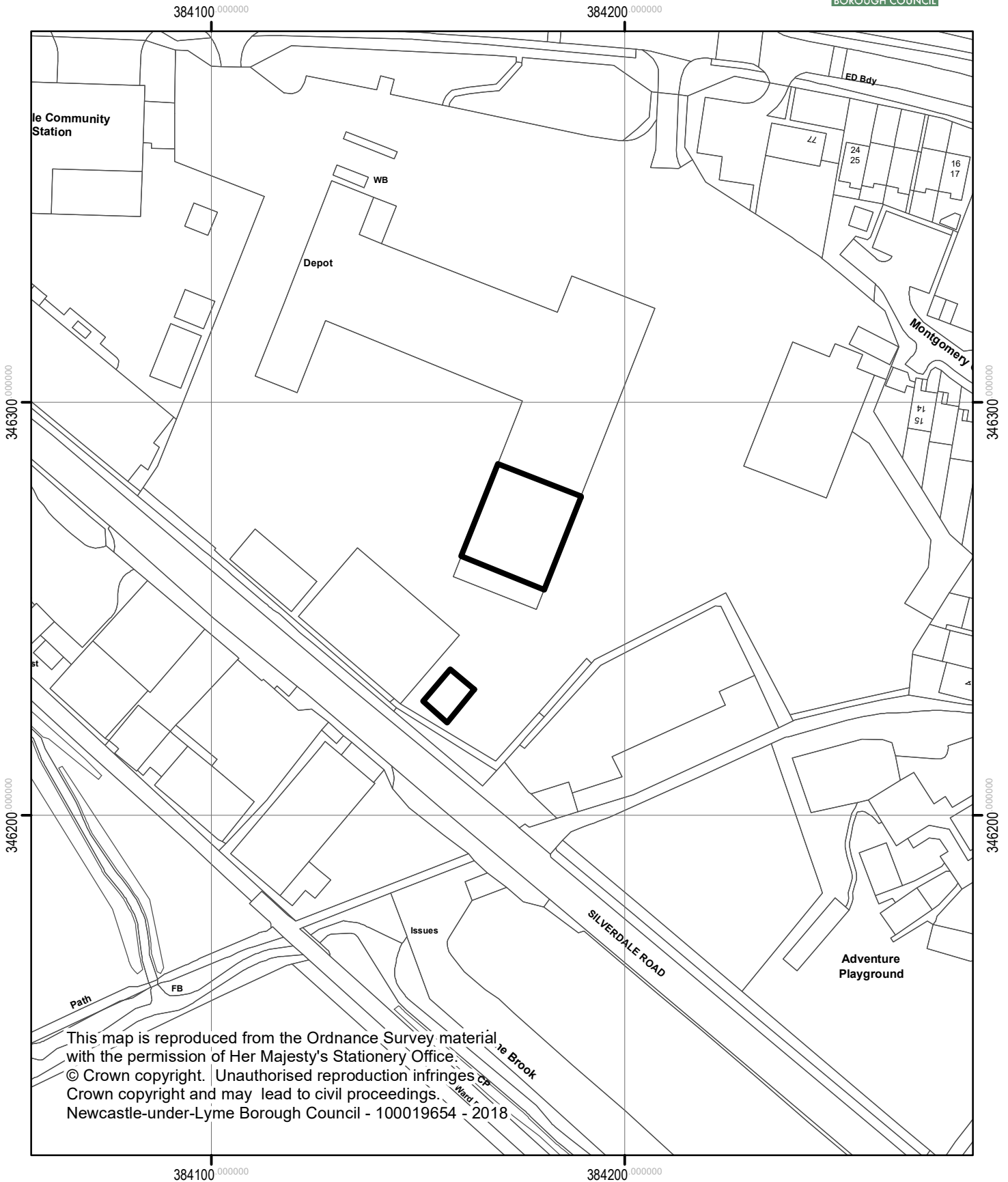
### **Background Papers**

Planning File  
Planning Documents referred to

### **Date Report Prepared**

18<sup>th</sup> December 2019

Newcastle-under-Lyme Borough Council Depot  
Knutton Lane, Knutton, ST5 2SL



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## HALF YEARLY REPORT ON PLANNING OBLIGATIONS

### Purpose of the Report

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

### Recommendation

- a) That the report be noted

### Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on 18<sup>th</sup> June 2019 and covered the period between 1<sup>st</sup> October 2018 to 31<sup>st</sup> March 2019. This report now covers the period between 1<sup>st</sup> April to 30<sup>th</sup> September 2019 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, contributions that have been received as a result of planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete.

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

As with previous half yearly reports the relevant Section 106 information is reported in various Tables. However, the format of this report and the method of reporting it may change over the next few months following a change to the Community Infrastructure Regulations and recent planning guidance published in September which requires local planning authorities, that have received developer contributions, to publish an infrastructure funding statement (IFS) summarising their developer contributions data. The first IFS must be published by the 31<sup>st</sup> December 2020 and must be reported at least once a year. The first IFS must cover a period that starts on the 1<sup>st</sup> April 2019.

Your officers are now working with other departments of the Council to prepare and develop the data format and IFS.

The next half yearly report will be reported to members in the summer of 2020 and it is envisaged that further information on the data format and IFS will be given.

**Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st April to 30<sup>th</sup> September 2019)**

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

<b>Application reference and date of agreement or undertaking</b>	<b>Location of development</b>	<b>Development</b>	<b>Purpose of the obligation(s) entered into by developers/owners</b>	<b>The level of contribution(s) payable when development trigger achieved</b>
18/00736/OUT 11 <sup>th</sup> June 2019	Chatterley Valley, Peacock Hay Road	Hybrid planning application comprising (A) Full planning application for earthworks associated with the creation of development plateaus, access roads and associated drainage works; and (B) Outline planning application for the development of buildings falling within Use Classes B1(b), B1(c), B2 and B8 and ancillary A3/A5 with all matters reserved.	Travel Plan Monitoring	£11,325
			Traffic Regulation Order	£5,000
18/01011/FUL 4 <sup>th</sup> July 2019	Plot 3 Of The Science & Innovation Park, Keele Road, Keele	Construction of a new veterinary training school incorporating a specialist veterinary referral hospital, first opinion veterinary practice with associated access, parking, servicing and	Travel Plan Monitoring	£2,360 (Index Linked)



		landscaping detail.		
18/00698/FUL 18 <sup>th</sup> July 2019	Sites Of Horwood, Lindsay And Barnes Halls, Keele University, Keele	Demolition of 732 student bed-spaces and the erection of 20 new buildings to provide 1,685 student bedrooms (1706 student bed-spaces) and social hubs at Horwood and Lindsay Halls and the provision of car parking at Barnes and Horwood Halls.	Travel Plan Monitoring	£2,360
			Real-Time Travel Information	£15,000
			Toucan Signalled Controlled Crossing	£39,000
18/00507/OUT 30 <sup>th</sup> July 2019	Croft Farm, Stone Road, Hill Chorlton	Outline planning for the demolition of existing buildings, 1 replacement farmhouse, erection of 11 bungalows, access, parking and amenity space.	1no. Affordable Housing Unit	Not Applicable
			Off-site Public Open Space Provision	£12,000 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00990/FUL 9 <sup>th</sup> August 2019	Bursley Primary School, Bursley Way, Bradwel	Proposed extension and internal refurbishment with external works.	Mode Shift Stars Scheme	£5,000 (Index Linked)
19/00114/FUL 15 <sup>th</sup> August 2019	Wolstanton Retail Park, Newcastle Under Lyme	Class A1 retail store, servicing and car park alterations and ancillary works.	Travel Plan Monitoring	£2,407 (Index Linked)

**Table 2 – Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1st April to 30<sup>th</sup> September 2019)**

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

<b>Application Number (if applicable) &amp; Reference Number of original related permission and date of modified /discharged agreement</b>	<b>Location of Development</b>	<b>Application</b>	<b>Decision</b>
13/00426/OUT 12 <sup>th</sup> July 2019	Land At End Of Gateway Avenue Baldwins Gate Newcastle  Deed of Variation	Erection of up to 113 dwellings and associated works	Deed of Variation to secure staircasing of the Shared Ownership (Affordable Housing) Units up to 100%.
18/00314/FUL 2 <sup>nd</sup> September 2019	Land South Of Mucklestone Road Loggerheads Market Drayton Shropshire  Deed of Variation	Application to vary condition 2 of planning permission ref 18/00314/FUL ( Erection of five residential dwellings, access and associated works) to incorporate revised landscape drawings	Deed of Variation that preserves the Council's position in respect of obligations secured prior to the grant of permission 15/00202/OUT

**Table 3 - Development where financial contributions have been made (1<sup>st</sup> April to 30<sup>th</sup> September 2019)**

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

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
18/00183/FUL	The Orme Centre, Orme Road, Newcastle	Conversion of existing building and erection of new building to provide 112 bed student accommodation	Travel Plan Monitoring	£2,360 SCC
			Resident Parking Zone Survey	£6,000 SCC
18/00483/FUL	Former Savoy Cinema/Metropolis Nightclub, Newcastle	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a part 9, part 12 storey building to provide 211 rooms of student accommodation.	Public Open Space Improvements/ Enhancement	£22,000 NBC
			Public Realm Improvements	£11,000 NBC
			Travel Plan Monitoring	£2,200 SCC
			Real Time Passenger Information System Maintenance	£8,000 SCC
			Improvements to the cycle route from Newcastle	£10,600

			town centre to Keele University	SCC
17/00791/FUL	Land Adjacent To Slacken Lane, Kidsgrove, Staffordshire	Proposed 2no. 2 bed detached bungalow	Public Open Space Improvements	£5,814.92 NBC
17/01021/FUL	Cornwall House, Sandy Lane, Newcastle Under Lyme	Change of use of Cornwall House Clinic back into a dwelling.	Public Open Space Improvements	£5,579.00 NBC
16/00958/FUL	(Marks and Spencer) Wolstanton Retail Park, Newcastle	Variation of condition 3 (To increase the amount of floorspace within the M&S store that can be used for convenience goods sales to 1,496sqm) of planning permission 11/00611/FUL - Demolition of existing retail warehouse units, distribution unit and redundant methane pumping station. Construction of new retail store with ancillary refreshment facilities, new and altered car parking, servicing and sewerage facilities	Business Improvement Contribution – seventh annual payment	£11,593.91 NBC

**Table 4 - Development where financial contribution have been spent. (1<sup>st</sup> April to 30<sup>th</sup> September 2019)**

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

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
Nil	-	-	-	-

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

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

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

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

				<p>The final report of the DVS is awaited and a further update will be provided when one is available.</p> <p>In October 2018 on any approach by the developer and prior to the referral of the case to the District Valuer the developer requested that they be permitted to make payments in monthly instalments to settle the debt. This request is yet to be reported to the Committee because until the reappraisal has been completed the total sum owing is unknown. No payments appear to have been made to date</p>
<p>17/00791/FUL 24th April 2018 19/00130/207C3</p>	<p>Slacken Lane, Butt Lane</p>	<p>Erection of dwelling</p>	<p>Non-compliance with obligation requiring payment of a POS contribution of £5,579 (index linked)</p>	<p>Payment of this sum became due on 20th June 2018.</p> <p>The payment, including the relevant interest, has now been paid.</p> <p>This case can now be closed.</p>



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

### Purpose of the Report

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

### Recommendations

**a) That the report be noted**

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

### Introduction

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

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

This report covers the period between 13<sup>th</sup> August 2019 (when the Committee last received a similar report) and the date of the preparation of this report (20<sup>th</sup> December 2019).

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

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

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

period. This provides yet another reason for the Planning Service maintaining a clear and continued focus on timeliness in decision making, instructing solicitors and providing clarification where sought.

As from the 1<sup>st</sup> June 2018 the Service has signed up to a Staffordshire wide initiative to promote the use of a standardised Section 106 template agreement, with template schedules, which is being publicised so applicants are clear what documentation is required of them to complete the application process – with the aim of reducing delays and costs for applicants and to simplify the planning process.

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

Details of the applications involved are provided below:-

**(1) Land Bound By Rycroft, Ryebank, Merrial Street 17/00637/FUL**

This application for full planning permission for demolition of existing buildings and construction of a mixed use development of student accommodation, retail and commercial units and associated car parking originally came before the Planning Committee at its meeting on the 7<sup>th</sup> November 2017 (at around week 15). The resolutions of the Committee inter alia required obligations be entered into securing a financial contributions of; at least £542,797 to public realm improvements with the remainder (being at least £250,000) to be spent on the enhancement of public open space at Brampton Park or Queen Elizabeth Gardens, £2,245 towards travel plan monitoring; Real Time Passenger Information system for bus services; improvements to the cycle route from Newcastle town centre to Keele University; Real Time Town Centre Car Parking Capacity Information System; to review and provide/amend traffic regulation and Resident Parking Zones in the event that it has been demonstrated (through surveys secured by condition) that the development has resulted in on street parking problems. The resolution included the requirement that the agreement containing these obligations should be completed by the 8<sup>th</sup> January 2018.

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

The 8<sup>th</sup> March 2018 date was not achieved and whilst further ongoing delays have occurred your Officer has considered it appropriate to agree further extensions of time within which the Section 111 agreement can be secured. However, it would now appear that the applicant does not wish to progress this matter and clarification is now being sought in this regard.

Some 121 weeks have now passed since receipt of the application.

**(2) Former Bristol Street Motors, London Road 16/01106/FUL**

This application for full planning permission for 499 studio apartments for student occupation was permitted in October 2017 with a completed S106 agreement, which secured a number

of financial contributions. The developer subsequently submitted a request to vary the current terms of the section 106 agreement and a report came before the 3<sup>rd</sup> January 2019 Planning Committee. The resolution of the Committee was to agree to amend the existing Section 106 agreement so that it requires contributions totalling £300,000 (index linked as from October 2017) unless substantial commencement is not achieved by the 3<sup>rd</sup> January 2020 and then a review of the financial position will then be required. The resolution included the requirement that the agreement should be completed by the 3<sup>rd</sup> March.

There have been numerous complications in securing this deed of variation and limited progress was made in more recent months due to delays on behalf of the Council. In light of this your Officer agreed to extend the period within which the Deed of Variation (DoV) can be completed to the 20<sup>th</sup> December and the DoV was completed on the 18<sup>th</sup> December.

The DoV was completed some 53 weeks after receipt of the application.

### **(3) The Brighton, Silverdale 18/00714/FUL**

This application for full planning permission for the change of use and refurbishment of former care home (C2) into apartments (C3) for over 55s independent living - 16 new one beds and 3 two bed apartments came before the Planning Committee at its meeting on the 26<sup>th</sup> March (at around week 15). The resolution of the Committee required an obligation to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution if found financially viable. The resolution included the requirement that the agreement should be completed by the 1<sup>st</sup> May 2019.

The agreement was not completed by the 1<sup>st</sup> May due to a number of delays on behalf of the Council which meant that your officer agreed extensions of time by which the Section 106 should be completed, the latest being to the 20<sup>th</sup> December 2019. The agreement was completed on the 19<sup>th</sup> December and the decision notice was issued on the 20<sup>th</sup> December 2019.

The decision was issued in this case some 53 weeks after receipt of the application.

### **(4) Bursley Primary School 18/00990/FUL**

This application for full planning permission for an extension to the school came before the Planning Committee at its meeting on the 26<sup>th</sup> March (at around week 15). The resolution of the Committee required an obligation to secure a financial contribution of £5,000 for the preparation and monitoring of a Mode Shift Stars scheme to promote and encourage sustainable access to the school. The resolution included the requirement that the agreement should be completed by the 26<sup>th</sup> April 2019.

The agreement was not completed by the 26<sup>th</sup> April due to a number of delays on behalf of the Council. The applicant decided to proceed with a unilateral undertaking (UU) and your officer agreed extensions of time by which it should be completed with the latest being to the 9<sup>th</sup> August.

The UU was eventually completed on the 9<sup>th</sup> August and the decision notice was issued on the 22<sup>nd</sup> August 2019.

The decision was issued in this case some 32 weeks after receipt of the application.

### **(5) Land at New Road, Madeley 19/00036/FUL**

This application for full planning permission for the erection of 32 dwellings came before the Planning Committee at its meeting on the 23<sup>rd</sup> April (at around week 14). The resolution of the Committee required an obligation to secure 25% onsite affordable housing and financial contributions towards public open space (£178,528) and secondary school education places

(£66,488). The resolution included the requirement that the agreement should be completed by the 31<sup>st</sup> May.

The agreement was not completed by the 31<sup>st</sup> May due to a number of delays on behalf of the Council which meant that your officer agreed extensions of time by which the Section 106 should be completed with the latest being to the 5<sup>th</sup> September 2019.

The agreement was finally completed on the 3<sup>rd</sup> September and the decision notice was issued 'in time' on the 4<sup>th</sup> September 2019.

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

#### **(6) 4 Meadows Road Kidsgrove 18/00889/FUL**

This application for full planning permission for the change of use from warehouse (Class B8) and taxi base (sui generis) to a Working Men's Club (use class D2) came before the Planning Committee at its meeting on the 21<sup>st</sup> May (at around week 27). The resolution of the Committee required an obligation to secure the financing of improved glazing provision to any properties which would be materially impacted by the development. The resolution included the requirement that the agreement should be completed by the 28<sup>th</sup> June.

The agreement was not completed by the 28<sup>th</sup> June due to a number of delays on behalf of the Council which meant that your Officer agreed an extension of time by which the Section 106 should be completed.

In preparing the obligation it has become apparent that the development could not be made acceptable through a planning obligation to finance the provision of improved circumstances. The concern is that the obligation would not make the development acceptable in planning terms as any sum of money obtained to fund mitigation measures, as may be required, does not guarantee that the measures would be implemented as the owner of the adjoining the Meadows, Aspire, is under no obligation to undertake the required mitigation not being a part to the obligation (and could not be a party as they do not have an interest in the application site).

The applicant has been advised that if Aspire were prepared to give an informal undertaking to the Council that they would implement any required mitigation measures a negatively worded obligation that prevents the commencement of the use of the premises as a Working Men's Club until the mitigation measures are in place or, at the very least, the funds to implement the mitigation measures are provided to the LPA before the use commences may be acceptable. At this point in time no progress has been made towards completing such an obligation and clarification is being sought from the applicant in this regard.

Some 57 weeks have now passed since receipt of the application

#### **(7) Kidsgrove WMC Hardingswood Road Kidsgrove 18/00916/FUL**

This application for full planning permission for the demolition of existing buildings and construction of retail store (2,206sqm GEA) (Use Class A1) came before the Planning Committee at its meeting on the 21<sup>st</sup> May (at around week 27). The resolution of the Committee required an obligation to secure a travel plan monitoring fee of £2,407 and a financial contribution of £10,000 for the provision of signal controlled pedestrian crossing facilities on the A50 Liverpool Road. The resolution included the requirement that the agreement should be completed by the 28<sup>th</sup> June.

The agreement was not completed by the 28<sup>th</sup> June due to a number of delays on behalf of the Council. Considerable progress has recently been made, however, and it is anticipated that it will be completed in the New Year. In light of this your officer agreed an extension of time by which the Section 106 until 31<sup>st</sup> January 2020.

Some 57 weeks have now passed since receipt of the application

**(8) Land South of Mucklestone Road, Loggerheads 19/00409/FUL**

This application is for full planning permission to vary condition 2 of planning permission 18/00314/FUL which granted consent for the erection of five residential dwellings, access and associated works. The application came before the Planning Committee at its meeting on the 16<sup>th</sup> July (at around week 7). The resolution of the Committee required a Deed of Variation (DoV) which preserves the Council's position in respect of obligations secured prior to the grant of permission 18/00314/FUL. The resolution included the requirement that the DoV should be completed by the 16<sup>th</sup> August.

The agreement was not completed by the 16<sup>th</sup> August due to a number of delays which meant that your officer agreed a number of extensions of time by which the DoV should be completed with the latest being to the 20<sup>th</sup> September 2019.

The DoV was eventually completed on the 31<sup>st</sup> October and the decision notice was issued 'in time' on the 12<sup>th</sup> November 2019.

The decision was issued in this case some 24 weeks after receipt of the application.

Date Report prepared

20<sup>th</sup> December 2019

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## Planning Committee 7<sup>th</sup> January 2020

### 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 10<sup>th</sup> September 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 24<sup>th</sup> 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. The developer would be contacted to secure the installation of benches and it is anticipated that they will be installed in the first quarter of 2020.</p>	Monitor site for installation of benches.



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 &amp; 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 5<sup>th</sup> 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 13<sup>th</sup> 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 4<sup>th</sup> 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 5<sup>th</sup> 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 9<sup>th</sup> 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>Land 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 3<sup>rd</sup> 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 1<sup>st</sup> 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 2<sup>nd</sup> 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 22<sup>nd</sup> 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 effect. 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 18<sup>th</sup> 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 18<sup>th</sup> 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> <p>An application has now been received (19/00629/FUL) for the retention of the building for a use falling within Class B8 (storage and distribution). Further supporting information is to be provided by the applicant that seeks to support the case that this is appropriate development in the Green Belt and in response to concerns that have been raised by the Highway Authority and the Environmental Health Division.</p>	Instructions sent to Legal and enforcement notice issued.

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## Report on Open Enforcement Cases

### Purpose of the Report

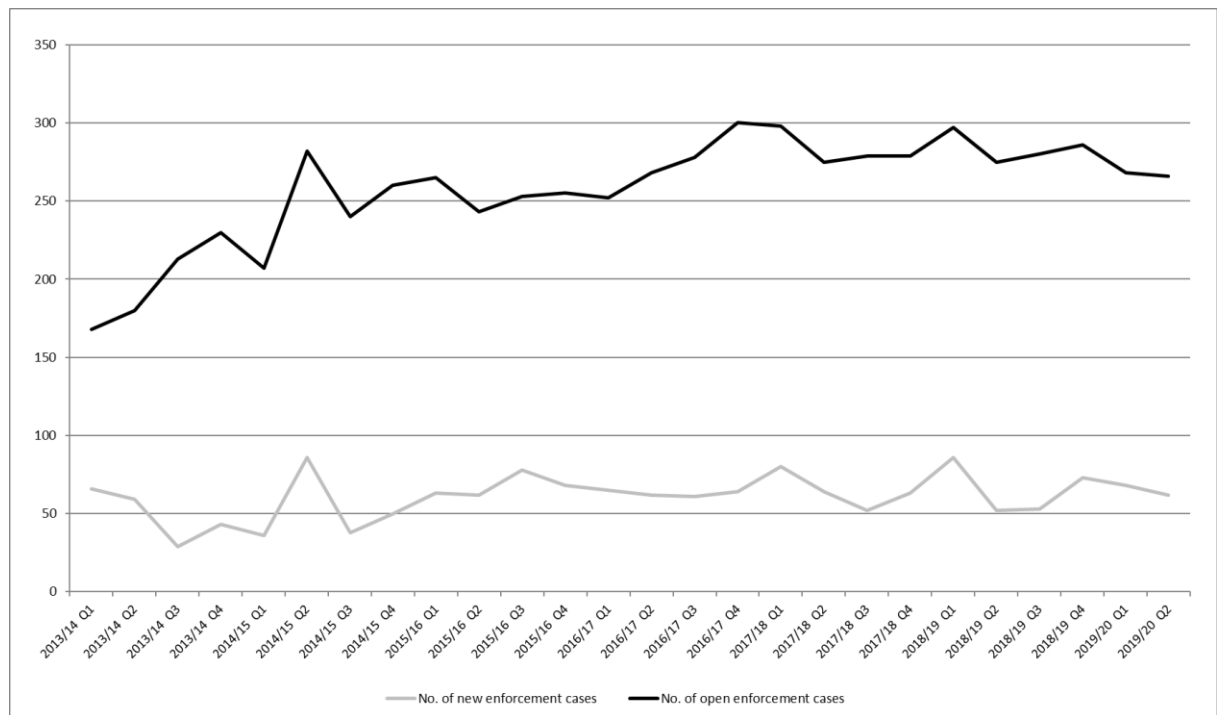
To inform members of the current situation regarding the enforcement caseload.

### 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 (July - September 2019) a further 62 new cases have been reported, less than the previous quarter (68). The current number of open cases is 266. The number of open cases has slightly decreased in this quarter given that in the last quarter it was 268. Such figures are illustrated in the graph below.



A number of the cases have associated pending planning applications that are awaiting determination (12 as at 28 November 2019).

### Date report prepared

28 November 2019

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**APPEAL BY MR AND MRS TAYLOR AGAINST THE DECISION OF THE COUNCIL TO REFUSE OUTLINE PLANNING PERMISSION FOR THE CONSTRUCTION OF THREE DETACHED DWELLINGS AT LAND BETWEEN 164 AND 180 MOW COP ROAD, MOW COP**

<b><u>Application Number</u></b>	<b>18/01004/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused on 10<sup>th</sup> May 2018</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>18<sup>th</sup> November 2019</b>

The Inspector identified the main issues to be;

- Whether the proposal is inappropriate development within the Green Belt for the purposes of the National Planning Policy Framework and development plan policy; and
- The effect of the proposal on the openness of the Green Belt; 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.

The conclusions of the Inspector are summarised as follows:

- Given the undeveloped nature of the site and its location to the south-west of built development, the site is characterised as open countryside and not as being within the village of Mow Cop. Furthermore, although there are residential properties to the south west of the appeal site, Nos. 180 and 182, they are physically and visually detached from the settlement of Mow Cop by the appeal site and a change in topography and do not therefore read as part of the village.
- Even if the appeal scheme could be considered limited, it would not constitute 'limited infilling in a village' since neither the appeal site nor the dwellings to the south west of the site are in the village. It is therefore not an exception set out within paragraph 145 of the Framework and accordingly, the appeal scheme would be inappropriate development in the Green Belt.
- The proposal would result in a loss of openness which would harm the openness of the Green Belt, undermining the fundamental aim of keeping land permanently open and have a modest but significant adverse impact on the related Green Belt purpose to assist in safeguarding the countryside from encroachment, contrary to the relevant expectations of the Framework.
- The proposal would be inappropriate development in the terms set out in the Framework and lead to a loss of openness to the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The substantial weight to be given to Green Belt harm is not clearly outweighed by the modest benefits arising from three dwellings. Consequently, very special circumstances do not exist, and the proposal would conflict with the Framework.

The planning decision setting out the reasons for refusal and the Appeal Decision in full can be viewed via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/01004/OUT>

## **Recommendation**

That the appeal decision be noted.

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**APPEAL BY MR D CAPODICCI AGAINST THE DECISION OF THE COUNCIL TO REFUSE OUTLINE PLANNING PERMISSION FOR THE FORMATION OF 9 NEW (NET) DWELLINGS INVOLVING CLEARANCE OF EXISTING SINGLE BUNGALOW AND ERECTION OF BUILDING TO CONTAIN UP TO 10 APARTMENTS ALONG WITH ON SITE PARKING AND SITE ACCESS AT 10 POPLAR AVENUE, CROSS HEATH, NEWCASTLE-UNDER-LYME**

<b><u>Application Number</u></b>	<b>18/00692/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused by Planning Committee on 29<sup>th</sup> January 2019</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>21<sup>st</sup> November 2019</b>

The Inspector identified the main issues to be;

- the effect of the proposed development on the character and appearance of the appeal site and surrounding area;
- the effect of the proposed development on existing trees; and,
- the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regard to privacy, outlook and disturbance.

The conclusions of the Inspector are summarised as follows:

- The proposed development would have a materially harmful and unacceptable effect on the character and appearance of the surrounding area. As such, it would be contrary to the design, character and appearance aims Policies of the Local Plan, the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document (2010), and the Framework.
- The development would have a harmful effect on existing trees and the proposal thus fails to accord with the amenity and environmental aims of Local Plan Policy N12 and paragraph 170 of the Framework.
- Taking into account the likely size of the proposed development, the anticipated 2-storey construction, the plot size of the site and the adjacent neighbouring properties, the proposal would appear as being unacceptably overbearing, resulting in a loss of privacy to existing neighbouring occupiers.
- The Council raise issues with regards to disturbance through refuse and recycling collection, but on this matter, there is little in the way of evidence to substantiate this assertion.
- The proposed development would significantly harm the living conditions of neighbouring occupiers, with particular regard to privacy and outlook. Consequently, there would be conflict with the living conditions aims of CSS Policy CSP1 and the Framework.
- The social and economic benefits to the area are acknowledged however these are minor factors in favour of the development and do not outweigh the harm identified.

The planning decision setting out the reasons for refusal and the Appeal Decision in full can be viewed via the following link

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00692/OUT>

## **Recommendation**

That the appeal decision be noted.

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