

# Public Document Pack

**Date of meeting** Tuesday, 28th April, 2020  
**Time** 6.00 pm  
**Venue** via Video - Conference  
**Contact** Geoff Durham 742222



**NEWCASTLE  
UNDER LYME**  
**BOROUGH COUNCIL**

Castle House  
Barracks Road  
Newcastle-under-Lyme  
Staffordshire  
ST5 1BL

## Planning Committee

### AGENDA

#### PART 1 – OPEN AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**  
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 12)  
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - LAND NORTH OF WEST AVENUE, KIDSGROVE. PERSIMMON HOMES. 19/00760/FUL** (Pages 13 - 30)  
Supplementary Report received withdrawing the application.
- 5 **APPLICATION FOR MINOR DEVELOPMENT - BP SWIFT SERVICE STATION, CLAYTON ROAD. SPOTLESS DETAILING LTD (TOMAS NIEMCZYK). 19/00838/FUL** (Pages 31 - 38)
- 6 **APPLICATION FOR MINOR DEVELOPMENT - LAND TO REAR OF SILVER BIRCH, BIRKS DRIVE, ASHLEY HEATH. MR & MRS J PERKINS. 20/00089/FUL** (Pages 39 - 48)
- 7 **LAND AT DODDLEPOOL, BETLEY. 17/00186/207C2** (Pages 49 - 50)
- 8 **QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED** (Pages 51 - 56)
- 9 **REPORT ON OPEN ENFORCEMENT CASES** (Pages 57 - 58)
- 10 **APPEAL AND COSTS DECISION - LAND ADJACENT TO PARK HOUSE, DALES GREEN ROAD, MOW COP. 18/00921/OUT** (Pages 59 - 60)

- 11 **APPEAL DECISION - LAND BETWEEN WINDY RIDGE AND SIROCCO, LONDON ROAD, KNIGHTON. 19/00295/FUL** (Pages 61 - 62)
- 12 **APPEAL AND COSTS DECISION - 22 KING STREET, CROSS HEATH, NEWCASTLE-UNDER-LYME. 19/00135/FUL** (Pages 63 - 64)
- 13 **APPEAL DECISION - 1 PRESTBURY AVENUE, NEWCASTLE-UNDER-LYME. 19/00742/FUL** (Pages 65 - 66)
- 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 A. Fear (Chair), M. Reddish (Vice-Chair), J Williams, P. Northcott, B. Proctor, D. Jones, H. Maxfield and S. Moffat

#### ONLINE JOINING INSTRUCTIONS

The meeting of the Planning Committee will begin at 6pm on Tuesday, April 28<sup>th</sup>. This meeting will be held virtually using Zoom.

#### Watching the Meeting

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Web: <https://zoom.us/j/91354501077>

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You do not require a password or pre-registration to access this committee meeting. Please note, as an attendee you will only be able to watch the meeting. You will not be able to vote, ask questions or discuss the materials presented to the committee.

#### Representations in support or against applications

When joining the webinar using the App or Web link, please ensure that you enter your full name as your screen name, so that you can be identified during the meeting and asked to speak at the appropriate time.

If you will be joining the webinar by phone please ensure that you inform our Committee Services team of the number you will be using and make sure that your Caller ID is not blocked – this will allow us to identify you during the meeting and facilitate you speaking to the committee.

Speakers are given five minutes in which to make their representations after which, no further part is taken in the proceedings but you will still be able to listen to the debate.

**PLANNING COMMITTEE**

Tuesday, 4th February, 2020  
Time of Commencement: 7.00 pm

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

Councillors:	M. Reddish	G Williams	D. Jones
	J Williams	B. Proctor	H. Maxfield
	P. Northcott	S Tagg	S. Moffat

Officers:	Rachel Killeen	Senior Planning Officer
	Elaine Moulton	Development Management Team Manager
	Becky Allen	Landscape Manager
	Trevor Vernon	Solicitor
	Darren Walters	Team Leader Environmental Protection
	Geoff Durham	Mayor's Secretary / Member Support Officer
Shawn Fleet	Head of Planning and Development	

Also in attendance:

1. **APOLOGIES**

There were no apologies.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

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

**Resolved:** That the minutes of the meeting held on 7 January, 2020 be agreed as a correct record.

4. **APPLICATION FOR MAJOR DEVELOPMENT -FORMER POLICE STATION, MERRIAL STREET, NEWCASTLE. DRAYTON BEAUMONT SERVICES HOLDINGS LTD. 19/00925/COU**

*Condition (v) was proposed by Councillor Simon Tagg and seconded by councillor Reddish*

*Condition (vi) was proposed by Councillor John Williams and seconded by Councillor Helena Maxfield*

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

- (i) Time limit
- (ii) Approved plans
- (iii) Provision of weatherproof parking for minimum of 4 cycles
- (iv) Delineation of car parking spaces
- (v) The decorative feature above the front entrance door to be protected during any works to the front elevation and to be retained.
- (vi) Any external features such as guttering that require replacement to be of similar materials/design.

5. **APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF DEANS LANE AND MOSS GROVE, RED STREET. PERSIMMON HOMES (NORTH WEST). 19/01009/FUL**

**Resolved: That, Subject to no representations raising objections to the**

**application being received by the 25<sup>th</sup> February 2020 raising material planning considerations that are not addressed within the main agenda report, the Head of Planning be given delegated Authority to Permit the variation of Condition 12 of 19/00375/FUL so that it reads as follows:**

**Prior to the first occupation of any of the dwelling houses hereby approved, the temporary footpath link, as shown on drawing ref: DLN-SDA.07 - Temporary Footpath Route, which links to the existing public footpath (Newcastle 21), shall be completed and made available for use. The temporary footpath link shall be retained until all of the dwelling houses and the permanent footpath link on the eastern boundary of the site which links to the existing public footpath (Newcastle 21) have been completed. The permanent footpath link shall thereafter be retained for the life of the development.**

**and subject to the imposition of all other conditions attached to planning permission 19/00375/FUL that remain relevant at this time.**

6. **APPLICATION FOR MINOR DEVELOPMENT - FORMER ROBERT COATES PLANT SALES LTD, CONGLETON ROAD, BUTT LANE. GREGGS PLC. 19/00919/FUL**

*Councillor Robinson spoke on this application.*

*The revised recommendation (in relation to hours of deliveries) was proposed by Councillor Northcott and seconded by Councillor Simon Tagg.*

**Resolved:** That the application be permitted subject to a varied condition restricting hours of deliveries to between 06.00 hours and 20.00 hours on any day and subject to the imposition of all other conditions attached to planning permission 18/00486/FUL that remain relevant.

7. **APPLICATION FOR OTHER DEVELOPMENT - 22, PILKINGTON AVENUE, WESTLANDS. MRS CHARLOTTE JOHNSON. 19/00977/FUL**

**Resolved:** That the application be permitted with no conditions.

8. **ENFORCEMENT UPDATE - 5 BOGGS COTTAGES**

Councillor Jones thanked officers for their informing of residents following a site visit. Councillor Proctor endorsed this and asked that this approach be continued until the matter was resolved.

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

9. **ENFORCEMENT UPDATE - LAND AT DODDLEPOOL, BETLEY**

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

10. **APPEAL DECISION - SILVER BIRCH, BIRKS DRIVE, ASHLEY HEATH. 19/00103/FUL**

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

11. **APPEAL AND COSTS DECISION - THE BENNETT ARMS, LONDON ROAD, CHESTERTON. 18/00371/FUL**

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

12. **URGENT BUSINESS**

The following item was brought to committee as Urgent Business due to the appeal hearing taking place on 11 February, 2020 and this being the last Planning Committee before that date.

**Land adjacent to Park House, Dales Green Road, Mow Cop. Mr Jones. 18/00921/OUT**

Councillor Simon Tagg drew attention to the final sentence of the report;

'It is important to note that the Council's position in the appeal remains that the development should be refused for the reasons set out in the decision notice'.

**Resolved:** That subject to the terms for securing affordable housing being considered acceptable, it be agreed that the Council should enter into a Section 106 agreement that secures affordable housing on the appeal site, should the appeal be allowed.

**Chair**

Meeting concluded at 7.48 pm

## **PLANNING COMMITTEE**

Tuesday, 14th April, 2020  
Time of Commencement: 6.00 pm

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

**Councillors:** M. Reddish                      B. Proctor                      S. Moffat  
J Williams                                  D. Jones  
P. Northcott                                H. Maxfield

**Officers:** Elaine Moulton                      Development Management  
Team Manager  
Shawn Fleet                                  Head of Planning and  
Development  
Daniel Dickinson                              Head of Legal /Monitoring  
Officer  
David Elkington                                Head of Customer and Digital  
Services  
Martin Hamilton                                Chief Executive

### **1. CORONA VIRUS**

In line with the Government's advice in respect of the CV-19 outbreak, and in particular the advice around social distancing, working from home and the self-isolation advice given to those considered to be most vulnerable, it was decided that the meeting be conducted under 'emergency powers'.

### **2. APOLOGIES**

There were no apologies

### **3. DECLARATIONS OF INTEREST**

Councillor Fear declared a non-prejudicial interest in application 20/00003/FUL as a member of the Moseley Railway Trust.

### **4. MINUTES OF PREVIOUS MEETING(S)**

**Resolved:** That the minutes of the meeting held on 31 March, 2020 be agreed as a correct record.

### **5. APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF ECCLESHALL ROAD, LOGGERHEADS. PLANT DEVELOPMENTS LTD. 20/00159/FUL**

*Amendment to Saturday start time proposed by Councillor Northcott and seconded by Councillor Reddish.*

**Resolved:** That the the variation of Condition 6 of 16/00866/DEEM4 be

permitted so that it reads as follows:

In relation to the development hereby permitted, construction activities, including deliveries, shall be restricted to the following days and times:

08:00 - 18:00 Monday to Friday

09:00 - 13:00 Saturdays

Construction shall not be undertaken on a Sunday or a public holiday.

and subject to the imposition of all other conditions attached to planning permission 16/00866/DEEM4/FUL that remain relevant at this time.

**6. APPLICATION FOR MINOR DEVELOPMENT - BUTTERTON GRANGE FARM, TRENTHAM ROAD, ACTON. MR JOHN SKIDMORE. 19/00636/FUL**

*Conditions in relation to the roof colour and the residential accommodation being linked to the business proposed by Councillor Reddish and seconded by Councillor Fear.*

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

- (i) Standard time limit
- (ii) Approved plans
- (iii) Revised access details
- (iv) Details of parking and turning areas
- (v) Access to remain ungated
- (vi) Tree protection measures
- (vii) Hours of use
- (viii) Restriction on the number of dogs (no more than 6 dogs in each agility training area at any one time)
- (ix) Training sessions to be pre-booked
- (x) No kennelling facilities
- (xi) Submission and approval of a noise management plan
- (xii) Residential accommodation and business/facilities on site to be linked
- (xiii) Restriction on additional lighting
- (xiv) Waste storage and collection arrangements
- (xv) Removal of obstacles and jumps when outdoor training area not in use
- (xvi) Roofing to be grey in colour to match the existing training building.

**7. APPLICATION FOR MINOR DEVELOPMENT - APEDALE HERITAGE CENTRE, APEDALE COUNTRY PARK. DR JOHN ROWLANDS. 20/00003/FUL**

*Councillor Fear did not vote on this application.*

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



- (i) Time limit condition
- (ii) Approved Plans
- (iii) Materials to be in accordance with the submitted details and coloured Mussel Green
- (iv) Site investigations in respect of coal mining legacy
- (v) Remediation scheme in respect of coal mining legacy
- (vi) Submission and approval of a verification report (for coal mining legacy) prior to the first occupation/ use of the development
- (vii) Prior approval of external lighting

**8. APPLICATION FOR OTHER DEVELOPMENT - THE COTTAGE, BOWSEY WOOD LANE, NEWCASTLE. MR & MRS CURRY. 19/00938/FUL & 19/00939LBC**

Application 19/00938/FUL:

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

- (i) Time limit condition
- (ii) Approved plans
- (iii) Submission and approval of sample facing materials, including doors, windows and guttering
- (iv) Conservation style roof lights
- (v) Section drawings of glazed link
- (vi) Outbuildings to be demolished and removed from site
- (vii) Details of fabric repairs to the listed building
- (viii) Fabric repairs carried out prior to the occupation of the proposed extension
- (ix) Details of design and finish of louvered canopy
- (x) Timber frame repairs and archaeological reporting
- (xi) Archaeological/ heritage watching brief
- (xii) Alignment of Utility Apparatus
- (xiii) Approval of an Arboricultural Method Statement

Application 19/00939/LBC:

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

- (i) Time limit condition
- (ii) Approved plans
- (iii) Submission and approval of sample facing materials, including doors, windows and guttering
- (iv) Conservation style roof lights
- (v) Section drawings of glazed link
- (vi) Details of fabric repairs to the listed building
- (vii) Timber frame repairs and archaeological reporting
- (viii) Archaeological/ heritage watching brief

Advisory Note: That the Conservation Advisory Working Party be advised that, had the current circumstances not prevented it, the application would have been referred back to them for consideration.

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

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

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

Members were advised that a start letter had now been issued.

- Resolved:**
- (i) That the information be received
  - (ii) That a further update report be brought to the 26 May Planning Committee.

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

Members were advised that a recent site visit had taken place and that a joint site visit with Cheshire East Council would take place before the next Planning Committee.

- Resolved:**
- (i) That the information be received
  - (ii) That a further update report be brought to the 28 April Planning Committee

**12. TREE PRESERVATION ORDER -SELBOURNE. PINWOOD ROAD, ASHLEY. TPO206**

- Resolved:** That Tree Preservation Order No 206 (2019), Trees at Selbourne, Pinewood Road, Ashley, Market Drayton be confirmed as varied and that the owners of the site be informed accordingly.

**13. URGENT BUSINESS**

There was no Urgent Business.

The Chair thanked the Council's Head of Customer and Digital Services, David Elkington for enabling this meeting to go ahead.

The Chair advised that feedback on the meeting would be welcomed.

**Chair**

Meeting concluded at 7.35 pm

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**LAND NORTH OF WEST AVENUE**  
**PERSIMMON HOMES**

**19/00760/FUL**

The application seeks full planning permission for a residential development of 71 dwellings which is comprised of 53 dwelling houses and 18 apartments together with associated public open space and landscaping.

The application site lies within the urban area of Kidsgrove, as indicated on the Local Development Framework Proposals Map. The site area is approximately 2.05 hectares.

The statutory 13 week determination period for this application expired on the 23<sup>rd</sup> December 2019 but the applicant has agreed an extension of time to the statutory determination period to the 1<sup>st</sup> May 2020.

## **RECOMMENDATIONS**

**REFUSE** for the following reasons:

1. The proposed development, by virtue of its layout, form and scale, with a particular focus on housing density and inappropriate design along the site frontage to West Avenue and excessive frontage parking, would have a significant adverse impact on the character and appearance of the area. The development is therefore contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the guidance set out in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) and the requirements and policies of the National Planning Policy Framework 2019.
2. The proposed development would have a harmful impact on the residential amenity of the future occupiers of plots 22-40 on the southern boundary of the site by virtue of unacceptable noise impacts and the applicant has failed to propose acceptable mitigation measures. The development would therefore result in unacceptable living conditions and a quality of life which is contrary to the requirements of the National Planning Policy Framework (2019).
3. The applicant has failed to demonstrate that an acceptable drainage strategy is proposed for the development site to suitably address any flood risk arising from the development and so the proposed development is contrary to Policy CSP3 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 together with the requirements the National Planning Policy Framework (2019), in particular the criteria set out in Paragraph 163.
4. In the absence of a secured planning obligation, the development fails to make an appropriate contribution towards the provision of affordable housing which is required to provide a balanced and well-functioning housing market, as referred to in the Newcastle-under-Lyme Borough Council Affordable Housing Supplementary Planning Document (2009) and the Supplementary Planning Document on Developer Contributions (2007). The proposal would thus be contrary to Policies CSP6 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, saved Policy IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2019).
5. In the absence of a secured planning obligation the development fails to make an appropriate contribution towards the monitoring of a Travel Plan to promote the most sustainable modes of travel as referred to in the Newcastle-under-Lyme Borough Council Supplementary Planning Document on Development Contributions (2007). For this reason also the proposal would fail to provide a sustainable form of development and would be contrary to Policies SP3 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, saved Policy IM1 of the Newcastle-under-Lyme Local Plan 2011, and the aims and objectives of the National Planning Policy Framework (2019).

### **Reason for recommendations**

Overall it is considered that the adverse impacts arising from granting planning permission (i.e. the inappropriate design, potential poor living conditions for future occupants and failure to provide a suitable drainage plan) would outweigh the benefits of the provision of housing land and the benefits to the local economy and as such on this occasion there is no presumption in favour of this development. Furthermore, without a completed planning obligation to secure appropriate S106 obligations the development would also be unacceptable and contrary to local and national planning policy guidance.

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

The applicant has been given adequate opportunity to overcome the concerns of the scheme but has failed to do so. Therefore, it is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and a positive outcome cannot be achieved in this instance.

### **KEY ISSUES**

The application seeks full planning permission for a residential development of 71 dwellings which is broken down into 53 dwelling houses and 18 apartments.

The application site comprises a vacant area of land on the western side of West Avenue, within the defined urban area of Kidsgrove. The site is also bounded to the west by Green Belt but does not lie within it as indicated on the Local Development Framework Proposals Map. The site area is approximately 2.05 hectares.

Public footpath number 227 Kidsgrove Parish runs around the northern and western edges of the application site.

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

- Is the principle of residential development on the site acceptable?
- Is the proposal acceptable in terms of its design and impact on the form and character of the area, including impact on protected trees within and adjoining the site?
- Would there be any material adverse impact on residential amenity?
- Would the proposed development have any material adverse impact upon highway safety?
- What, if any, planning obligations are necessary to make the development policy compliant?
- Do the adverse impacts of the development outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

#### **1. Is the principle of residential development on the site acceptable?**

1.1 The application site comprises a vacant area of land historically associated with the adjacent commercial/industrial use to the south west. The land was purchased by the owners of the adjacent industrial unit in 2005, but has remained undeveloped since.

1.2 An Employment Land Report has been submitted with the application. This demonstrates that since the site was acquired in 2005, it has been subject to a sustained marketing exercise which received a very negative response with regards to the development of the land on a commercial basis. As such the site has remained vacant for 15 years. The applicant highlights that any interest during this time period was largely from house builders and land developers with a focus being on residential development of the site.

1.3 The Joint Employment Land Review (JELR) prepared by the Council in 2015 identified the application site as being of 'average quality' with regards to land that would form part of meaningful and deliverable employment land portfolio. Since then the land has been promoted twice for housing at preferred options and the current plan making stage. It has also been considered in the SHLAA as land that is suitable and available for housing.

1.4 An objection has been received from the Council's Economic Regeneration Department which notes that the application should be refused on the basis that the site is a designated employment land site and its development for other uses would lead to a limited supply of land within the Borough.

1.5 Paragraph 117 of the Framework states that planning decisions should promote an effective use of land in meeting the needs for homes and other uses. Criterion c) of Paragraph 118 details that substantial weight should be given to the use of brownfield land within settlements for homes and other identified needs.

1.6 The applicant has provided suitable evidence that the land has been actively marketed from 2005-2017, when it was acquired by the current owners. There has been extremely limited interest in the development of the site on a commercial basis and this has led to the land sitting vacant for just over 17 years. As part of the development of the Joint Local Plan the land has been promoted as suitable and available for housing, and together with the presence of similar residential development on former industrial land within close proximity to the application site, it would not be considered reasonable to refuse the application on the basis that the land would no longer be available as employment land.

1.7 Therefore in light of the above it is not considered that the use of the land for residential development would be considered unacceptable in principle and the proposed development accords with local and national planning policy which seeks to provide new housing development within existing urban development boundaries on previously developed land. This site is located in the urban area and it is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and employment opportunities.

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

2.0 Is the proposal acceptable in terms of its design and impact on the form and character of the area, including impact on protected trees within and adjoining the site?

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

2.2 Policy R3 of the Urban Design Supplementary Planning Document (SPD) states that new housing must relate well to its surroundings, it should not ignore the existing environment but should respond to and enhance it, exploiting site characteristics. R12 states that residential development should be designed to contribute towards improving the character and quality of the area.

2.3 The north-east of the site is bounded by a Public Right of Way (PROW), dense mature trees and a small group of houses that back onto the site and open landscape. To the west lies a dense belt of mature landscape to the west, with a dense area of mature trees which includes a significant drop in site levels and the continuation of the PROW. The surrounding land is host to a variety of development and uses, with AAH large industrial/warehouse units located to the south and east and a new residential estate to the north of the site.

2.4 The application proposes a variety of 2, 3 and 4 bedroom semi-detached and detached dwellings together with 1 and 2 bedroom apartments within the two, 3 storey apartment blocks proposed. The dwellings are predominantly 2 storeys, with 18 of the dwellings having accommodation in the roof space (2.5 storeys). All of the dwellings are of traditional design with pitched roofs and appear to be of brick and tile construction, however specific details of facing materials can be secured via condition. Design features include projecting porches, door canopies, integral garages and projecting gables. The 2.5 storey dwellings also include dormer windows on the front facing roof slope.

2.5 Overall it is considered that the house types and design, as proposed, are acceptable.

2.6 The provision of public open space within the site is considered to be appropriate. The development includes properties that would face onto the public open space and would look to protect the surrounding woodland, features that are welcomed by the Landscape Development Section (LDS). Whilst raising no objections to the principles of the proposed layout, the LDS have requested that further information is secured via a condition in relation to the landscaping scheme, tree protection measures, the location of services and the submission of a woodland and open space management plan.



2.7 Objections have been received from residents voicing concerns over the implications that the development would have on the adjacent woodland and trees within the site. It is considered that the development would suitably preserve these existing landscape features, and the attachment of appropriately worded conditions to any permission granted would secure the additional information necessary to ensure these features are suitably protected during the development. Enhancements via a landscaping condition could also be achieved.

2.8 However notwithstanding the above comments, there are a number of concerns with the site layout and the implications this has on the character and appearance of the area.

2.9 The site frontage onto West Avenue is visually dominated by the two proposed apartment blocks. The scale and form of these buildings on such a prominent elevation is not considered to represent an appropriate design solution as they fail to respond positively to the character and form of the immediate locality. The development also fails to provide an active frontage onto West Avenue as the layout sees this boundary dominated by the two apartment blocks, a bin collection area and fencing to enclose residential gardens with only one dwelling actively fronting onto West Avenue.

2.10 Also, whilst the site layout demonstrates that the 53 dwelling houses and the two apartment blocks can be accommodated on the land, the resulting density is considered to be to the detriment of the sites appearance. Areas of the site would appear cramped and overdeveloped, particularly along the primary access road where there appears to be a focus on numbers rather than attractive place making. Density along the secondary roads to the north/north west of the site however appears more appropriate. This cramped and high density layout has also resulted in areas being dominated by frontage parking, particularly along the southern side of the primary access road which would be dominated by the parking courts serving the apartment blocks and frontage parking on plots 22 through 39.

2.11 The comments of the Urban Vision Design Review Panel identify that the setting of the site offers a significant opportunity to achieve a distinctive and attractive place to live, and you Officer agrees with this view. For the reasons outlined above the development fails to take this opportunity to enhance the appearance of the area.

2.12 Therefore the design, layout and appearance of the development would have a harmful and unacceptable impact on the visual amenities of the area and so would be contrary to Policy CSP1 of the Core Spatial Strategy as well as the provisions of the NPPF.

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

3.1 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.

3.2 The Council's Supplementary Planning Guidance (SPG) - Space Around Dwelling provides more detailed guidance on privacy and daylight standards including separation distances between proposed dwellings and new development in relation to existing dwellings.

3.3 The layout and orientation of the proposed development is sufficiently distant from existing properties to avoid any adverse impact on living conditions. In addition the layout achieves appropriate separation distances between the proposed properties and sufficient private amenity space, in accordance with the Councils SPG.

3.4 The application is supported by a Noise Impact Assessment given the presence of a large commercial unit directly south of the application site. This report demonstrates that there is a requirement for the development to incorporate a bund and acoustic fence together with specific glazing specifications. It also identifies that in order to meet the recommended noise levels, windows on certain properties will have to be closed.

3.5 The Environmental Health Division has noted that where the Local Planning Authority accept a scheme to be assessed with windows closed, but the scheme is reliant on open windows to mitigate overheating, it is necessary to consider the potential noise impact during the overheating condition.

3.6 The EHD have objected to the development on the basis that the application provides no details of any alternative methods of ventilation or mitigation measures to prevent overheating and in the absence of such an assessment they recommend the refusal of the application. The applicant was afforded the opportunity to submit this additional information, however no further reports have been received.

3.7 Paragraph 180 of the Framework identifies that new development should be appropriate for its location and take into account the likely effect of pollution on health and living conditions. Paragraph 127 also goes on to state that development should, amongst other things, create places that promote health and well-being with a high standard of amenity for existing and future users.

3.8 The Noise Impact Assessment has suitably identified the adjacent commercial enterprise as a constraint that could expose occupiers of the proposed dwellings to unsuitable level of noise. However, as the EHO has identified that suitable noise levels can only be achieved with some windows to be closed, the proposal offers no further information as to the mitigation measures that will be implemented to ensure that principal rooms and living spaces will not be subject to overheating. Ultimately this would not offer appropriate living conditions or amenity for the future users of the development.

3.9 Therefore your officer considers that the applicant has failed to demonstrate that the development would provide suitable levels of residential amenity to future occupants and so is contrary to the provisions of the NPPF.

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

4.1 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.

4.2 Vehicular access to the proposed development would be via Old Butt Lane/ West Avenue where there is an existing stub road to the site measuring circa 6m. It is from this stub road where access to the site will be introduced.

4.3 The initial comments of the Highway Authority recommended the refusal of the application and raises a number of concerns including the suitability of the site access, the contents of the TA and the layout of the site.

4.4 In response to these concerns the applicant has provided additional information in the form of Technical Note (TN1) to accompany the Transport assessment. The Highway Authority (HA) have considered the contents of this additional information and identified that the applicant has now suitably assessed the potential impacts of the proposed development on the highway network in relation to access, capacity, safety and the suitability the site including access by non-car modes. The applicant has demonstrated that the impact of the proposed development traffic is low, and the existing signalised junction of Linley Road/Congleton Road/ Coalpit Hill/ Newcastle Road will operate within practical capacity during peak hours.

4.5 In their previous comments the HA had queried the suitability of the site access proposed. Access would be from an existing gates access off Old Butt Lane which has a sharp, curved alignment onto West Avenue. However the Stage 1 Road Safety Audit provided by the applicant details that consideration of visibility splays and a swept path analysis for the existing access did not raise any highway safety issues and there have been no recorded accidents on West Avenue or Old Butt Lane within the last 5 years.

4.6 The development is for a mix of one, two, three and four bedroom properties and the proposed layout demonstrates that 152 spaces can be provided within the site. This includes both detached and

integral garages which are sufficient to house one vehicle per dwelling. This is considered to represent an acceptable level of car parking for the number of units proposed in this location and so the proposal complies with the requirements of Policy T16 of the Local Plan. The Highway Authority raises no objections to the development in relation to parking provision.

4.7 The Councils Waste Management Section have raised no objections with regards to the layout of the site and its ability to provide sufficient space for the manoeuvring of refuse vehicles. Whilst they have raised concerns that the use of unadopted roads may lead to refuse receptacles being left on the highway, this is not considered to raise any severe highway safety implications. Furthermore, your officers have raised concerns with the design of the scheme and the density and a reduction in the density could assist in improving the layout for waste collections.

4.8 Objections have been received from local residents that raise concerns on the lack of capacity along West Avenue and the surrounding road network to accommodate a further residential development of this scale. However, as outlined above the applicant has now suitably demonstrated that the proposed access to the site is safe and that the surrounding road network will not be overwhelmed from the addition vehicle movements that would be generated by the development. In addition the Highway Authority no longer have any objections to the proposal and so the refusal on highway safety grounds would not be reasonable.

4.9 Based on this information the Highway Authority no longer poses any objections to the scheme and it is considered that the applicant has suitably demonstrated that the proposed development would not raise any severe highway safety and/or parking issues. As a result the proposal would comply with the requirements of Policy T16 of the Local Plan as well as the provisions of the NPPF.

#### 5.0 Would there be any issues of floor risk or sewage capacity

5.1 The application has been accompanied by a Flood Risk Assessment and Drainage Strategy (FRA) and a sustainable urban drainage strategy scheme (SuDS). This identifies that the development site is located within Flood Zone 1 and that the risk of flooding to the site is considered to be low. Development within Flood Zone 1 is the preferable option when considered in the context of the sequential test found in the NPPF.

5.2 The development will however introduce impermeable drainage areas in the form of buildings, surfacing and landscaping which will result in an increase in surface water run-off.

5.3 Severn Trent Water has raised no objections to the proposal subject to conditions to secure plans for the disposal of foul and surface water flows. United Utilities have similarly offered no objections to the proposal subject to conditions to secure an appropriate surface water drainage scheme and the securement of foul and surface water being drained on separate systems.

5.4 However, in their initial consultation response the Lead Local Flood Authority (LLFA) identified a number of concerns that had not been adequately addressed within the submitted Flood Risk Assessment (FRA). In particular they noted that there were inconsistencies in the calculations of drainage and run-off rates from impermeable areas; the lack of consideration for further SUDS features and no evidence of overland flood plan routing in the case of system exceedance or failure.

5.5 In response to the consultee comments, the applicant provided an updated FRA dated December 2019. Whilst the LLFA have accepted that the provision of SUDS features within the site is now acceptable, they have maintained their objections on the basis that there are still inconsistencies within the report in relation to drainage calculations for impermeable areas and the exceedance/failure plan.

5.6 The applicant has therefore failed to demonstrate that an acceptable drainage strategy is proposed for the development site and so the proposal is contrary Policy CSP3 of the Core Spatial Strategy as well as the requirements of the NPPF.

## 6.0 What planning obligations are considered necessary and lawful?

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

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

6.2 Staffordshire County Council states that the development would not result in an education contribution as there are projected to be a sufficient number of school places to mitigate the impact of the development at both primary and secondary phases of education.

6.3 The County Highway Authority has requested a contribution towards travel plan monitoring. Given the increase in car use as a result of the development, this request is considered to be appropriate, reasonable and in compliance with the tests outlined above.

6.4 The contributions identified above are considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

6.5 A further contribution was requested from the Councils Landscape Development Section (LDS). The development does trigger the requirement for a contribution towards a Multi-Use Games Area (MUGA) as identified within the adopted Open Space Strategy. The LDS have requested that such a contribution should be towards surfacing and line marking improvement at the former skate park MUGA within Clough Hall Park. Clough Hall Park is located just over a mile from the application which would equate to approximately a 30 minute walk. Whilst accessible via public footpaths, Clough Hall Park is located a considerable distance from the application site and so the request for a financial contribution is not considered to be directly related or fairly and reasonable related in scale to the development and so would not meet the requirements listed in Paragraph 56 of the Framework. Your officers will discuss whether there are other more suitable sites in close proximity to the site and whether a financial contribution is required and justified for that open space. A further update will be given prior to the meeting if one is available.

6.6 Policy CSP6 of the CSS states that residential development within the urban areas will be required to contribute towards affordable housing at a rate equivalent to target of 25% of the total dwellings to be provided. This application proposes 71 dwellings and at 25% provision for affordable housing, 18 affordable dwellings would be required. The scheme proposed does not include any affordable housing provision.

6.7 The application is accompanied by a Viability Assessment which details that the scheme would be rendered financially unviable should it be required to provide policy compliant affordable housing at 25% even without considering other S106 contributions identified above. They do however identify within Figure 8 of the report that the scheme would be marginally viable with a provision of 10% affordable housing, and no other S106 contributions which does lend to consideration that the development may, on consideration and negotiation, be capable of offering some level of contribution.

6.8 As the application is supported by a case for viability, your officer sought to obtain independent examination of the viability appraisal submitted. However the applicant has not agreed for the appraisal to be subject to an independent assessment.

6.9 Paragraph 57 of the NPPF highlights that the weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date and the transparency of assumptions behind evidence submitted as part of the viability assessment.

6.10 To ascertain that the assumptions being made by the applicant within their appraisal are reasonable, an independent assessment of the information is considered to be necessary and in line with recommendations within the NPPF and PPG. Without such an assessment your officer is unable to conclude that the development has sufficiently justified a failure to provide policy compliant financial contributions and affordable housing.

6.11 Therefore in the absence of such an independent appraisal, and no policy complaint S106 contributions on the table, the development fails to comply with the provisions of the NPPF as well as Policies SP3, CSP6 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and Policy IM1 of the Newcastle-under-Lyme Local Plan 2011.

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

7.1 The layout and form of the proposed development fails to make a positive contribution to the character and appearance of the area. The layout sees pockets of high density within the development site that are considered to be excessive and are at the expense of a more place-making led approach to development. The presence of a large, three storey apartment block on the site frontage with West Avenue introduces a further incongruous feature to the locality which would have a harmful impact on the visual amenities of the area. In line with Paragraph 130 of the Framework, development should be refused where it fails to take the opportunities available to improve the character and quality of an area.

7.2 The noise report submitted with the application has demonstrated that suitable internal noise levels can only be achieved in some dwelling when the windows are shut. The applicant has not offered any further information in relation to additional mitigation and ventilation requirements to remove the risk of overheating occurring in those dwelling where windows are to remain shut. This therefore demonstrates that future occupants may be subject to unacceptable living standards within the proposed dwelling, and is a matter of considerable weight.

7.3 The development has also not appropriately considered the implications of surface water flooding and drainage within the submitted Flood Risk Assessment and Drainage Strategy. In both reports the LLFA has identified inconsistencies in the calculations of drainage flow rates and the lack of a sufficient plan to accommodate potential exceedance and/or failures of the system.

7.4 When looking at these issues cumulatively, together with the lack of any appropriate financial contributions, it is concluded that the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

## **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 N12:	Development and the Protection of Trees
Policy N17:	Landscape Character – General Considerations
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential supporting Infrastructure

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

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

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

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD](#) (2009)

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

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

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

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

[Relevant Planning History](#)

None relevant

[Views of Consultees](#)

The **Education Authority** considered the impact of the development on St Saviour's Academy and The King's CE(VA) School. The development it was calculated that 53 dwellings would require 11 primary school places and that 53 dwellings would require 8 secondary places and 2 Post 16 places. These are based on a pupil product ratio (PPR) 0.03 per dwelling per year group. Using 7 year groups for Primary, 5 for secondary and 1 for Post 16 places. Where appropriate all 1 bedroom dwellings

have been deducted from the dwellings numbers and at secondary level only, all RSL dwellings have also been deducted in line with our Education Planning Obligations Policy. Based on this calculation there are projected to be a sufficient number of school places to mitigate the impact on this development at both primary and secondary phases of education. And so the development would not result in an education contribution.

**Economic Regeneration** have recommended that the application is refused as it would result in the loss of designated employment land, something that is of very limited supply. They also queried as to whether the site had been actively marketed for sale or development.

The Council's **Waste Management Section** has highlighted that the unadopted nature of the surfacing leading from the adopted highway means that some plots will not be served by collections directly outside the properties, creating collection points at the end of the adopted highway. This would be likely to cause containers to be left out at these points, designing nuisance complaints and obstructions to highway visibility. Further details are provided in relation to the storage capacity required for the proposed apartment blocks.

The **County Highway Authority**, in their response received on the 31<sup>st</sup> October recommended the refusal of the application as insufficient information had been provided to determine the proposal from a transport and highway safety perspective. Additional information was requested with regards to the transport assessment and suitability of the proposed site access as well as the road layout, parking and travel plan. Following the submission of additional information, further comments were received from the Authority on the 18<sup>th</sup> February whereby the previous refusal was withdrawn and the officer no longer raised any objections to the proposal subject to conditions to secure a Construction Management Plan prior to development commencing along with the securing of the appropriate visibility splays, parking and road layout and travel plan prior to the first use of the scheme. A S106 contribution of £6,895 is also requested for the monitoring of a residential travel plan.

**Kidsgrove Town Council** objected to the proposal. They noted concerns relating to the loss of employment land, lack of appropriate infrastructure including school places and healthcare, parking and highway safety. There were further concerns relating to potential flooding risks and implications on wildlife and the use of the adjacent public footpath. The Town Council sought reassurances that the trees and woodland would be protected and preserved and that any S106 contributions go towards the improvement of public footpath 216.

In their initial comments received 15<sup>th</sup> October 2019, the **Lead Local Flood Authority** detailed that the submitted information is not sufficient to fully demonstrate that the proposed development will meet the technical standards for SuDS. Clarification was sought in relation to drainage calculations for impermeable areas, water quality and exceedance flows.

Following the submission of additional information, further comments received on the 10<sup>th</sup> January still draw attention to outstanding issues in relation to drainage calculations and the exceedance/failure plan. As such they recommend that planning permission is not granted until the outstanding issues are resolved.

**United Utilities** raised no objections to the proposal subject to conditions to secure a surface water drainage scheme and the draining of foul and surface water from separate systems.

**Severn Trent Water** raise no objections to the proposal subject to conditions to secure a drainage plan for the disposal of foul and surface water flows and that the approved details are implemented prior to first use of the development.

**The Coal Authority** identifies that the site is underlain by recorded shallow coal workings to the far north and to the south west. However, it does lie outside of the defined High Risk Area and so a Coal Mining Risk Assessment was not necessary to support the application. Notwithstanding this, coal mining legacy potentially poses a risk to the proposed development and so intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. They raise no objections subject to conditions to secure these investigations and mitigation measures where appropriate.

The **Minerals and Waste Authority** identify that the site falls within the Minerals Safeguarding Area for shallow coal and fireclay. They state that whilst the development does not fall within the exemptions criteria listed in the Minerals Local Plan, the constraints imposed by existing residential and industrial development adjacent to the site it is unlikely to be practicable or environmentally acceptable to extract any underlying mineral in the foreseeable future. As such the Authority raises no objections to the application.

The **Environment Agency** raises no objections to the proposal subject to the inclusion of a planning conditions to ensure that any unacceptable risks from contamination are adequately addressed and mitigated during the re-development of the site.

In respect of Land Contamination the Councils **Environmental Health Officer** raises no objections to the development having reviewed the submitted information. Numerous conditions are requested to secure further site investigation works and remediation's measures as appropriate.

The **County Rights of Way Officer** identifies that the development does not recognise the existing of Public Footpath No. 227 which runs around the proposed application site. But it appears that the development proposal will not directly impact the public right of way. They go on to draw the applicants attention to the appropriate legislation in respect of the protection of public footpaths including maintenance, closure or diversion.

The **Crime Prevention Design Advisor** notes that the proposal appears to be very well conceived in the main with regard to addressing crime prevention and community safety. They go on to detail that the siting of the dwellings and apartment blocks along West Avenue provide a good visual and psychological screen to the bulk of the development. Suggestions are made to improve the scheme which relate to the fitting of lockable access gates to paths and additional planting, CCTV installation for the apartment blocks and high standard window and door fittings.

#### Representations

Eight letters of representation, including one from Councillor Robinson, have been received from seven addresses raising objections on the following grounds;

- Increased likelihood of flooding
- Insufficient road capacity for additional traffic that will be generated from the development
- Negative impact on the surrounding woodland
- The development should incorporate increased planting and open recreational space
- High housing density
- Impact on local services (schools, health services)
- Inadequate levels of parking within the development site
- Concerns with pedestrian and highway safety in relation to the proposed access and sites proximity to AAH Pharmaceuticals
- Poor quality of life to future residents that have outlook across to AAH Pharmaceuticals
- S106 contributions should be towards public footpath improvements
- Levels on the site have increased to the detriment of neighbouring properties
- Loss of employment land
- Temporary restrictions to use of adjacent public footpaths during construction
- Long term damage to the environment including vegetation and wildlife

#### Applicant/agent's submission

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

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00760/FUL>

#### Background Papers



Planning File  
Development Plan

Date report prepared

15<sup>th</sup> April 2020

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PUBLISHED 27 APRIL, 2020

**FIRST SUPPLEMENTARY REPORT**  
**TO THE PLANNING COMMITTEE**  
**28<sup>th</sup> April 2020**

**Agenda Item 4**

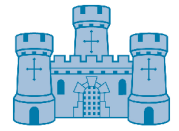
**Application Ref. 19/00760/FUL**

**Land North of West Avenue, Kidsgrove**

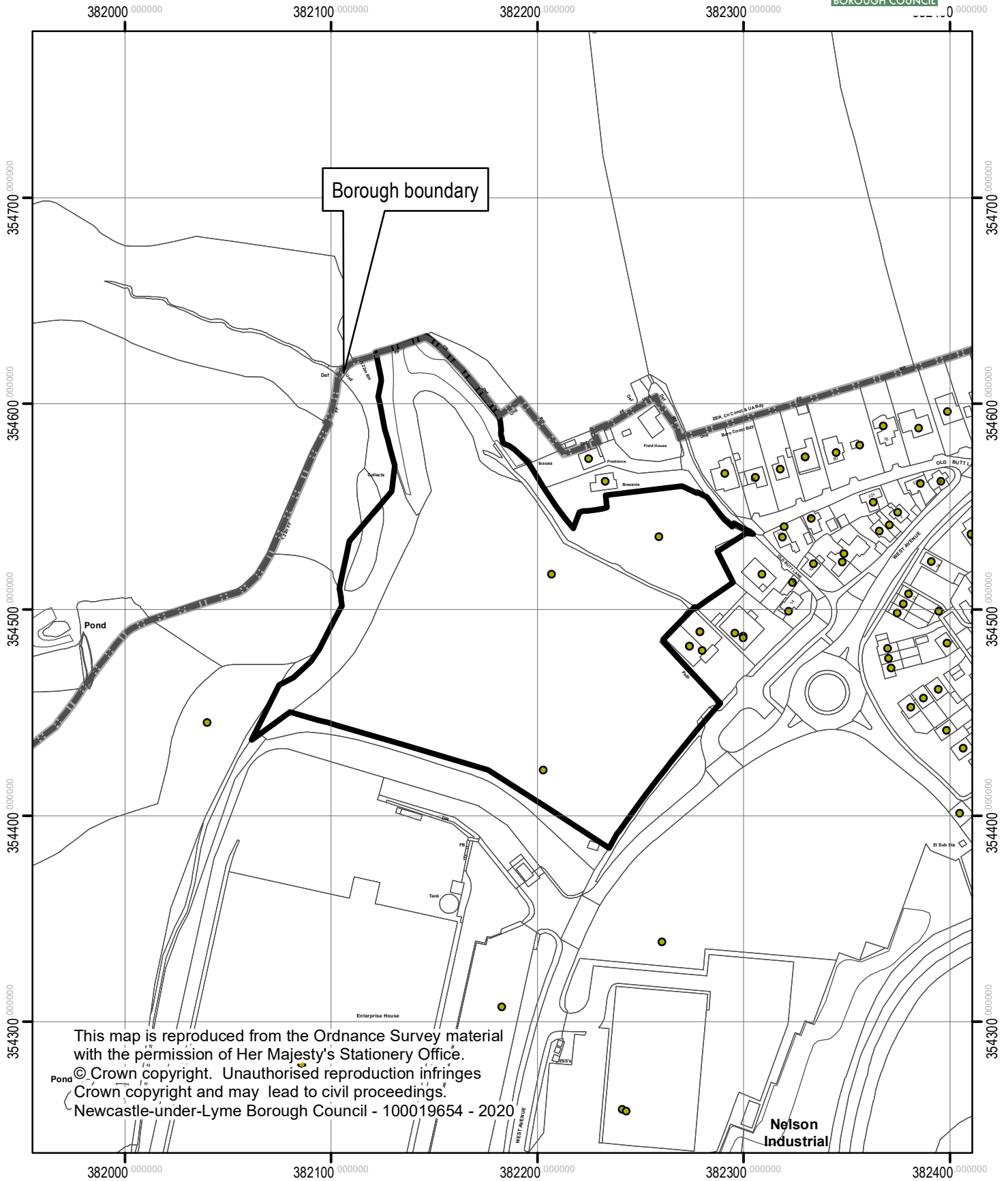
Since the publication of the main agenda report the applicant has **WITHDRAWN** the application.

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Land North Of West Avenue Kidsgrove



NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL



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**BP SWIFT SERVICE STATION, CLAYTON ROAD**  
**SPOTLESS DETAILING LTD (TOMAS NIEMCZYK)**

**19/00838/FUL**

The application is for the refurbishment of an existing hand car wash including the siting of a storage cabin and canopy to cover the drying area.

The application site is located within the Urban Area of Newcastle as indicated by the Local Development Framework Proposals Map.

The application has been called in to Committee by two Councillors due to residents' concerns about loss of amenity due to noise, light pollution and air quality.

**The 8 week period for the determination of this application expired on 30<sup>th</sup> December 2019 but the applicant has agreed to an extension of time to 30<sup>th</sup> April 2020.**

**RECOMMENDATION**

**Permit subject to conditions regarding the following:**

- i. Standard time limit**
- ii. Approved plans**
- iii. No discharge of surface water or waste water onto the highway**
- iv. Prevention of activities on the road to the rear of the site**
- v. Prevention of the installation of drying equipment**
- vi. Limit on the hours of activities associated with the washing or vacuuming of vehicles**
- vii. Prevention of the location of compressor plant or equipment externally**
- viii. Submission of a noise management plan**

**Reason for Recommendation**

The proposal raises no issues of impact on highway safety or visual amenity and subject to the imposition of conditions it is not considered that there would be any significant adverse impact on residential amenity. On this basis the proposal represents a sustainable form of development in accordance with local and national planning policy.

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

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

**Key Issues**

This is an application for full planning permission for the refurbishment of an existing hand car wash including the siting of a storage cabin, along with a canopy to cover the drying area.

The application site is located within the Urban Area of Newcastle as indicated by the Local Development Framework Proposals Map.

It is not considered that the application raises any issues of impact on highway safety. The issues of a proliferation of other car washes in the area, labour, employment, health and safety and environmental regulations that have been raised by residents are not material planning matters and are not considered further. Therefore, the key issues in the determination of the development are:

- Is the impact on the character and appearance of the area acceptable?
- Would there be any adverse impact on residential amenity?

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

Paragraph 124 of the Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. 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.

A new storage cabin (2.7m x4.8m in plan x 2.3m in height) is in place and a new canopy (8m x 6m in plan x 3.7m in height) is proposed adjacent to the existing buildings. The structures are relatively small scale and would be viewed within the context of the existing buildings and structures on the site. On this basis any additional harm to the visual amenity of the area would not be significant. The development therefore complies with local and national planning policy in this respect.

Would there be any adverse impact on residential amenity?

There are residential properties in close proximity to the rear and to either side of the site. Objections have been received from residents particularly on the grounds of noise impact from cars and the activities associated with the car wash.

Planning permission was granted at this site in 2005 for the provision of a hand car wash facility (Ref. 05/00382/FUL) subject to conditions requiring a rear bay door to be fitted and remain closed and restricting the hours of use of the development to between 8.00am and 9.00pm Monday to Sunday. That use remains extant.

The current application is for a new hand car wash that would use an automated prewash system in place of the unenclosed jet wash compressor previously used. Site activities would also include jet washing of wheels (with the compressor located within an enclosure) and vacuuming of vehicle interiors which would be carried out to the south of the site with the associated vacuum equipment located within a cabin. The vehicles would be hand dried as there is no automated drying system on site. The proposed operating hours of the hand car wash are 08:30 to 18:30 Monday to Saturday and 09:00 to 16:30 hours on Sundays.

A Noise Impact Assessment (NIA) that accompanies the application states that noise associated with the site and the previous hand car wash is already part of the character of the area. It asserts that the noise levels would likely reduce compared to the previous operations as the previous operator located their associated jet wash compressor and vacuum at an exposed position. The NIA concludes that there would be no significant noise impact at the nearest dwellings resulting from the new hand car wash operation.

The Environmental Health Division has no objections to the application subject to a number of conditions preventing activities on the road to the rear of the site, preventing the installation of drying equipment, limiting the hours of activities associated with the washing or vacuuming of vehicles, preventing the location of compressor plant or equipment externally and requiring the submission of a noise management plan.

Paragraph 54 of the NPPF states that "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."

In this instance there is a fall-back position whereby the site can operate as a car wash facility. However, the new car wash business would operate differently and it is considered necessary to



impose conditions that further minimise the impact of the use on residential amenity levels and on this basis it is not considered that an objection could be sustained on the grounds of impact on residential amenity.

Objections on the grounds of increased litter, smoking and car fumes are not considered significant in the context of the existing uses of the site.

## **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

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

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

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

[Supplementary Planning Guidance/Documents](#)

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

### **Relevant Planning History**

05/00382/FUL	Provision of car wash	Approved
08/00668/ADV	One illuminated box sign and fascia sign	Approved
13/00247/FUL	Retention of installation of ATM	Approved
13/00248/ADV	Retention of illuminated ATM sign	Approved
14/00612/FUL	Proposed extension to sales area	Approved
19/00839/ADV	Replacement signage	Approved

### **Views of Consultees**

The **Environmental Health Officer** has no objections subject to conditions preventing activities on the road to the rear of the site, preventing the installation of drying equipment, limiting the hours of activities associated with the washing or vacuuming of vehicles, preventing the location of compressor plant or equipment externally and requiring the submission of a noise management plan.

The **Highway Authority** has no objections subject to a condition regarding the discharge of surface water or waste water onto the highway.

The **Environment Agency** has no objections.

### **Representations**

One letter of **support** has been received stating that it would be good to see the facility used instead of lying idle.

Letters of **objection** have been received from the occupiers of 5 properties expressing concerns regarding the following:

- Noise impact from vehicles, car doors slamming, jet spraying machines, vacuum cleaners, engines revving, car horns, loud music and car wash attendants shouting over the noise of equipment.
- Impact of car fumes.
- Litter.
- Pests.

- Disordered and unpleasant appearance.
- Smoking.
- Impact on privacy.
- Complaints were made to the Council about the old car wash, noise monitors were installed and the car wash ceased trading.
- When permission was granted some years ago for a car wash, conditions were not enforced.
- There are numerous car washes in the area.
- Trees adjacent to the neighbours' fences have been cut down.
- Safety concerns on the petrol forecourt as no segregation of traffic.
- Assurances are sought that labour, employment, health and safety and other environmental regulations are being adhered to.
- If permission is granted, conditions are requested regarding acoustic fencing, triple glazing, reduced opening times, traffic flow measures and sound proofing.

#### 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/19/00838/FUL>

#### **Background papers**

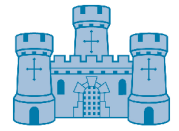
Planning files referred to  
Planning Documents referred to

#### **Date report prepared**

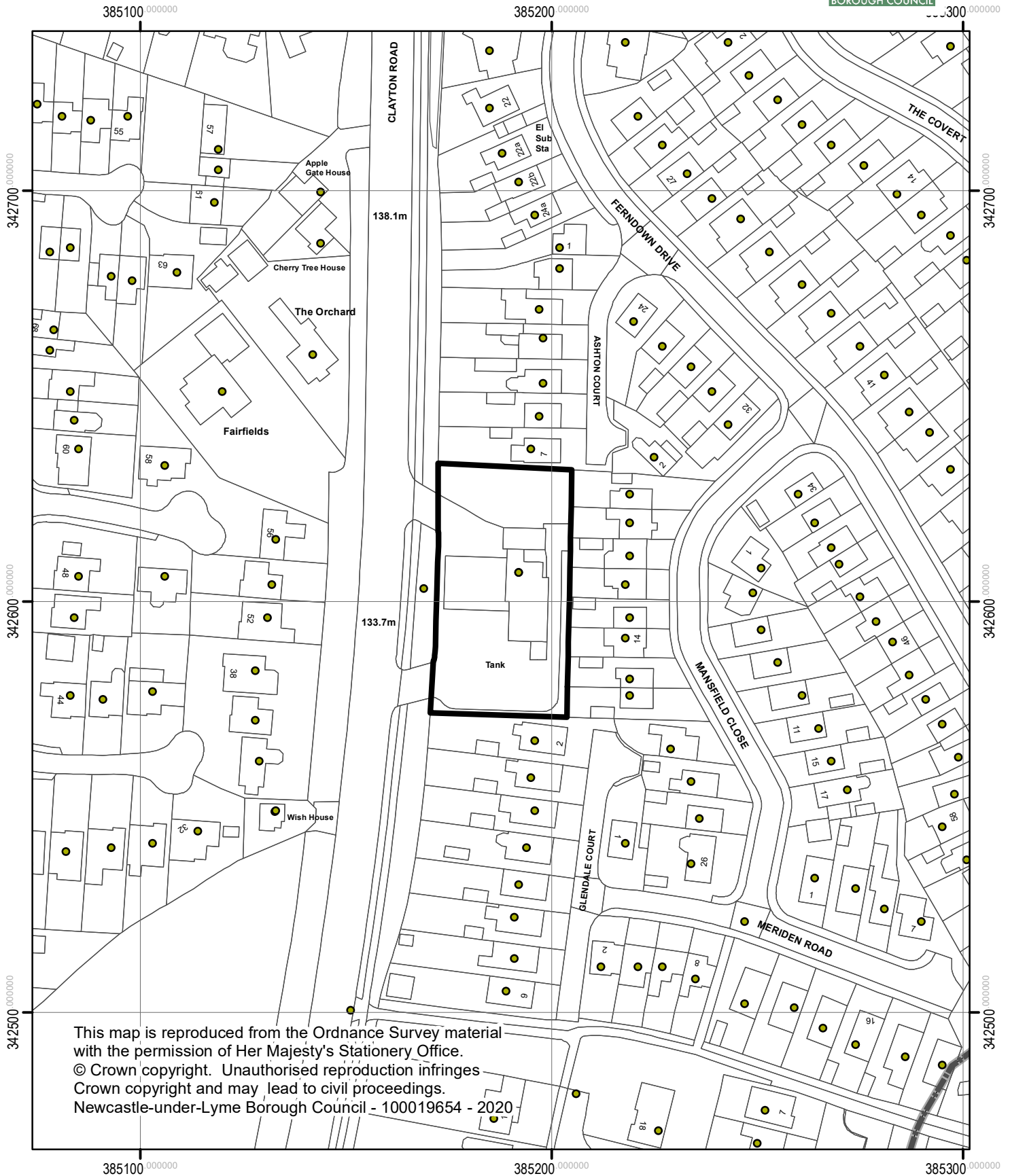
14<sup>th</sup> April 2020

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# BP Swift Service Station Clayton Road



NEWCASTLE  
UNDER LYME  
BOROUGH COUNCIL



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

**20/00089/FUL**

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

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

The application has been called to the Planning Committee for determination by two Councillors due to public concerns in respect of the following matters;

- Loss of a healthy tree from the adjoining property and impact on trees.
- Loss of privacy to adjoining residents.
- Impact on the nature and character of the area.
- Contrary to the Neighbourhood Plan.

**The 8 week period for the determination of this application expires on 2<sup>nd</sup> April 2020.**

**RECOMMENDATION**

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

1. Time limit
2. Approved plans
3. Approval of facing materials and materials of all hard surfaced areas
4. Windows to bedroom 1, in the side elevation, to be obscure glazed and retained as such.
5. No formation of a balcony, through the addition of a balustrade or similar, to bedroom 1.
6. Restriction on hours of construction.
7. Approval and implementation of design measures to secure appropriate noise levels.
8. Electric vehicle charging points.
9. Access, parking and turning areas to be provided prior to occupation
10. Retention of the carport for the parking of motor vehicles and cycles.
11. Submission, approval and implementation of a detailed, dimensioned tree protection plan, site specific method statement and arboricultural method statement, and arboricultural site monitoring schedule.

**Reason for Recommendation**

Planning permission has in the past been granted for residential development here, the permission is extant, and as such there can be no objections with regard to the principle of the development or in respect of highway safety. In recognition of the appeal decision in respect of 19/00103/FUL it is considered that the size of the dwelling on this plot is acceptable having taken into consideration the character of the Ashley Heath area. In addition it has now been demonstrated that the dwelling can be constructed without the unacceptable loss of visually significant trees to the detriment of the character of the area. As such there is no basis upon which refusal of planning permission can now be justified

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

Following the submission of additional information in response to the comments of the Landscape Development Section this is now considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework.

**Key Issues**

This application is for full planning permission for the erection of a detached dormer dwelling in the rear garden of the existing property, Silver Birch. It follows the refusal and subsequent dismissal at appeal of an application for a very similar dwelling, reference 19/00103/FUL. The reasons for refusal of the previous application are as follows:

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

The appeal decision in respect of 19/00103/FUL is a key material consideration in the determination of the current application.

In dismissing the appeal the Inspector agreed that the proposal would result in the loss of visually significant trees which would harm the character and appearance of the Ashley Heath area as set out in reason for refusal 2. Consideration is given, below, to whether the current proposal appropriately addresses such concerns.

The Inspector did not, however, agree with reason for refusal 1, that the scale of the proposed dwelling was disproportionate to the size of the plot and that it would be out of keeping and harmful to the character of the Ashley Heath area. Accordingly the Inspector concluded that the development would be consistent with policy CSP1 of the Core Spatial Strategy and policies LNPP1 and LNPP2 of the Loggerheads Neighbourhood Plan (LNP).

As the footprint of the dwelling, design and siting within the plot as proposed in this current application is fundamentally the same as the proposed dwelling that was considered at appeal, and as the site and policy context within which the Inspector considered the proposal has not changed since the appeal decision there is no basis upon which a different conclusion can now be reached. The concerns expressed by the Parish Council and within the representations received regarding harm to the character of the area and the proposal being contrary to the LNP are noted. However in light of the Inspector's conclusions on this particular issue, such a reason could not be substantiated in respect of the current application.

The Inspector didn't address the issue of principle within the appeal decision as such a reason was not advanced by the Council. In not raising principle as a reason for refusal the Local Planning Authority acknowledged that planning permission has been granted on this site for a detached bungalow, 15/00435/FUL, and a lawful material commencement of that permission has taken place. As such the permission remains extant. The existence of the extant permissions means that the development of this site for a single dwelling has been established and therefore it must be concluded that the principle of residential on this site is acceptable.

The proposed access is that already approved under 15/00435/FUL and the proposal does not involve a material intensification of the use of that access. In light of:

- the LPA not advancing highway safety as a reason for refusal;
- the Inspector considering that whilst during construction vehicles would temporarily increase local traffic, due to the size of the development this would be unlikely to cause significant prejudice to highway safety; and
- the Highway Authority not raising objections to the proposal;

it is considered that the current application does not raise highway safety concerns that would warrant refusal of planning permission.

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



- Would there be any adverse impact on residential amenity?
- Would there be any adverse impact on trees?

Would there be any adverse impact on residential amenity?

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

Following amendments to the previous proposal it was concluded by the Council that the impact of the proposal on residential amenity would not be harmful. The Inspector reached the same conclusion when determining the appeal. In respect of the position of windows and balconies the current proposal is the same as previous proposal and as such the same conclusions must be reached in respect of the issue of privacy. Such conclusions were reached on the basis that a first floor balcony in close proximity to the boundary with the neighbouring property, the Shieling, had been removed and the windows obscure glazed as well as the repositioning of a dormer window so that it faced towards the front of the property. Such amendments have been retained in the current and subject to appropriately worded conditions on any planning permission issued the formation of a balcony at a later date could be prevented and the obscure glazing could be secured.

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

In response to the issue regarding impact on trees there has been amendments to the proposed method of construction of the dwelling which has resulted in the formation level being adjusted and a small increase in the overall ridge height of the dwelling by 110mm. This will result in a marginal increase in the overall scale and massing of the dwelling but not to the extent that it will have a materially greater impact on the occupants of the closest dwelling, the Shieling. The conclusion therefore remains that the building would not have an unacceptable overbearing impact.

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

Would there be any adverse impact on trees?

As indicated above, in dismissing the appeal in respect of the previous application the Inspector noted that further tree loss would be required to accommodate the proposed development and this would fail to complement or reinforce the local character and would cause unacceptable harm to it.

In response to the appeal decision the proposed dwelling has been amended to include a pile and ring beam construction, thereby creating air space under the floor, and 3D cellular confinement (designed for root protection) to address the roots beneath the building. An irrigation system is also proposed beneath the building. Notwithstanding this, the current proposal initially indicated that a further 3 category C trees (of low quality with an estimated remaining life expectancy of at least 10 years) were to be removed one of which is located in the garden of the adjoining property (and as such could not be removed without the consent of that property owner). The plans have, however, now been amended to show that the trees are to be retained with the indication given that the reference to their removal was an error. As such the proposal now shows no additional tree removal than that permitted under 15/00435/FUL.

The Landscape Development Section (LDS) still have some concerns that excavations for the dwelling to the rear of the garage will cause some harm by affecting smaller, feeder roots of trees and that it is apparent that the proposed irrigation system beneath that part of the building cannot properly be installed due to levels thereby creating dry areas. They have not, however, objected and are not stating that further trees will be need to be removed to carry out the construction of the dwellings. In this regard the reason for refusal 2 of the previous application 19/00103/FUL and the concerns of the Inspector have been addressed.

The LDS do, however, remain concerned that the proximity of the dwelling to retained trees could lead to post development resentment of the trees by the occupants of the dwelling which would be likely to

lead to subsequent pressure for felling or pruning. This issue was addressed within the report relating to 19/00103/FUL where it was stated that other residents of Ashley Heath already live in close proximity to trees, given the extent of tree cover in the area, and that it would be difficult to argue that the Council would have no choice but to succumb to any pressure for tree removal. Whilst the LDS indicate that applications are received for tree removal in the area which can be difficult to resist it is noted that subsequent loss of trees through tree resentment was not referred to in the reasons for refusal of the previous proposal and was not raised as a concern by the Inspector in the appeal decision. It is therefore considered that this issue does not in itself justify refusal of planning permission and given that no trees will be lost as a result of the construction of the dwelling the reason that the appeal was dismissed has been appropriately addressed.

#### Other matters

A response to a number of other matters raised in representations is provided as follows:

- There is no evidence that wildlife will be harmed as a result of this development and there is no requirement, due to the nature of the development, for the application to be supported by an Ecological Report. There is no basis, therefore, to withhold planning due to concerns about the development on local wildlife, including Bats.
- Whilst an electric vehicle charging point, as required by the Environmental Health Division, is not shown on the plans this can be secured through planning condition
- The impact of noise/disturbance arising from the construction phase of the development can be limited through the restrictions on the hours that construction can take place secured by condition of any planning permission. As set out in the Inspectors decision letter, impacts arising from the construction phase would be for a limited time only and would not prejudice the long-term living conditions of nearby residents.
- Fire measures are addressed through Building Regulations and are not material to the determination of the planning application.
- The application has been publicised by neighbour notification letters in accordance with the adopted Statement of Community Involvement.

## **APPENDIX**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Relevant Planning History

03/00097/OUT	Refuse	Erection of dwelling
03/00096/FUL	Refuse	New double garage with driveway, turning area and access point
04/00259/OUT	Refuse	Conversion of existing garage and extension to form a retirement bungalow. Subsequent appeal dismissed.
07/00397/FUL	Refuse	Single storey rear extension, porch and double garage
07/00852/FUL	Permit	Single storey rear extension and front entrance
15/00435/FUL	Permit	erection of a detached bungalow, associated access and car parking arrangements
19/00103/FUL	Refuse	Demolition of existing detached garage and erection of detached dormer dwelling. A subsequent appeal was dismissed.

#### Views of Consultees

The **Environmental Health Division** has no objections subject to conditions restricting construction hours, setting maximum noise levels, and requiring electric vehicle charging points.

The initial comments of the **Landscape Development Section (LDS)** are summarised as follows:

- The proposal shows the removal of category 'C' trees (trees of low quality with an estimated remaining life expectancy of at least 10 years) which are of no visual importance. The pine labelled T5 on the submitted plans, and the unlabelled conifer in the garden of the Shieling should not be removed. Three trees have already been removed as part of the original planning permission for a dwelling.
- There are no objections in principle to the proposed 3D cellular containment carpet and pile and ring beam foundation construction. However it appears that the encroachment of the 3D cellular confinement surfacing into the Root Protection Areas (RPAs) of two trees, although of no dig construction, is greater than 20% of the existing unsurfaced ground within the RPAs of a number of trees which would be unacceptable.
- Care has been taken to ensure that the RPA of tree T6 will not be encroached on by the proposed driveway but there are concerns that the area isn't sufficient for the size of the property and further information should be provided.
- It is unclear what is proposed in the footprint of the proposed dwelling to the rear of the existing garage. It would appear that it would be necessary to reduce the ground levels by at least 170mm within the RPAs of two trees which would not be acceptable.
- Some of the retained existing trees would be exceptionally close to the proposed dwelling and closer than the majority of properties in the locality. This could lead to post development resentment of the trees and subsequent pressure for felling and pruning of the trees.

Following receipt of additional information from the applicant the advice now received from the LDS is as follows:

- No objection the proposed wood chip and board ground protection within the footprint of the building but this should be removed when no longer required for construction works.
- The stem protection of two trees (T24 and T5) should be by box construction and not standard protective barrier.
- Some concerns remain about the proposed excavations for the dwelling to the rear of the existing garage and that some harm, although not major, is likely to the roots. The RPA is the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability. Although no larger roots were encountered in the trial pits it is likely that smaller, feeder roots are present. It is also now apparent that the proposed irrigation system beneath this part of the building cannot be properly installed due to the levels, and dry areas are likely to be created.
- The main concern remains with regard to the proximity of existing trees to the building leading to future post development resentment remains. The initial application proposed to clear trees to make space for the building and its garden, and the planning inspector stated in the appeal decision that it was unclear as to whether mitigation planting could be accommodated. The Council does receive applications from other properties in the area to remove trees that are close to dwellings that are difficult to resist, and trees have been lost, sometimes by appeal, for this reason. It is not uncommon for new residents to want to remove trees after they have moved in.
- If permission is given, submission of a detailed, dimensioned tree protection plan, site specific method statement and arboricultural method statement, and arboricultural site monitoring schedule should be conditioned.

The **Highway Authority** (following a site visit on 14<sup>th</sup> February) has no objections to the proposal subject to the imposition of conditions requiring the access, parking and turning areas to be provided prior to occupation, and the retention of the carport for the parking of motor vehicles and cycles.

**Loggerheads Parish Council** objects to the application as it does not meet the criteria set out in the Loggerheads Neighbourhood Plan policy LNPG1 for housing developments namely it will cause significant harm to residential amenity and will lead to significant loss of garden space.

#### Representations

13 representations have been received objecting to the application. The main concerns expressed are summarised as follows:

- The proposed dwelling is too large for the size of the plot. It is not in keeping with the area and deviates from the originally approved bungalow on this plot.
- The proposal involves the felling and pruning of a significant number of trees protected through a Tree Preservation order. One of the trees shown to be removed is in the garden of the Shieling. The felling of more trees to facilitate further development would destroy part of the area's unique character.
- Removing trees to accommodate further unwanted development goes against the national strategy of tree planning for environmental reasons.
- Due to the height of the dwelling and its position close to the boundary with the Shieling it will dominate the garden of that property.
- The design incorporates first floor balconies one of which would directly overlook neighbouring properties resulting in loss of privacy. Permitting the development would be a breach of human rights
- The absence of an approved Development Plan for the area previously resulted in the granting of planning permission. This has changed with the introduction of the Neighbourhood Plan which seeks to minimise development in Ashley Heath. The proposal is contrary to that Plan.
- Birks Drive is an unadopted road and would not withstand the impact of heavy vehicles.
- The position of the garage does not adequately provide space for parking, loading or turning of large vehicles.
- It is likely that there are bats in the garage that is proposed for demolition.
- An electric vehicle charging point, as required by the Environmental Health Division, is not shown on the plans.
- Additional noise during building works will cause problems for shift workers and young children due to the close proximity of other properties.
- The reasons that application reference 19/00103/FUL was refused still apply as there has been no significant change to the plans since that decision was made.
- The proposed development will result in the increased likelihood of fire spread from building to building and/or trees.
- There has been a lack of publicity of the application by site notice.

One letter has been submitted in support of the application stating that the proposed dwelling is of a good design and smaller than most of the houses on Birks Drive and Tower Road. It is not too large for the plot and provides an addition to the housing stock on Birks Drive.

#### 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/20/00089/FUL>

#### Background papers

Planning files referred to

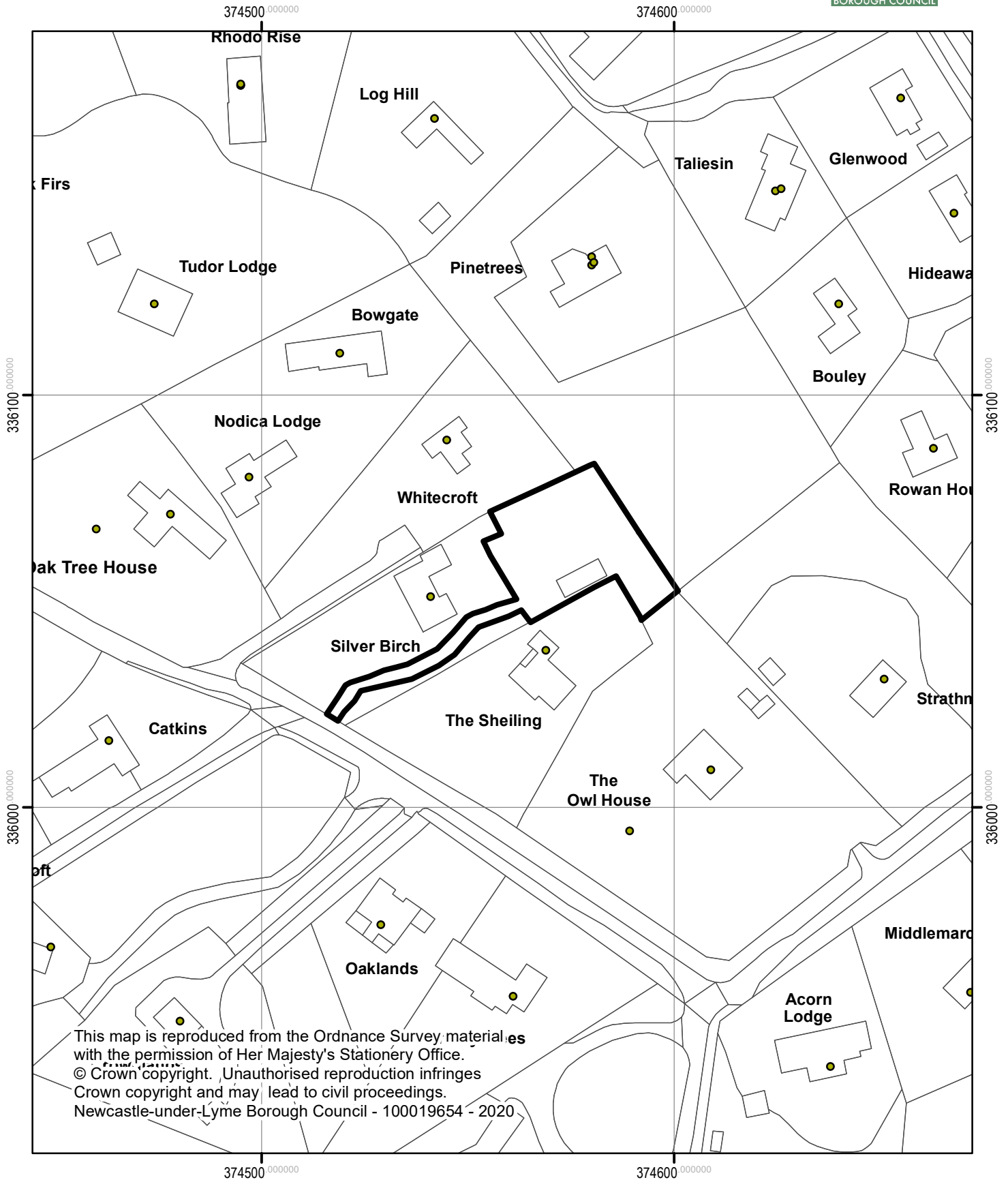
Planning Documents referred to

#### Date report prepared

16<sup>th</sup> April 2020

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Silver Birch, Birks Drive, Ashley Heath



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

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

### **RECOMMENDATION**

**That the information be received.**

### Latest Information

At the time that this report was written your officers have not had an opportunity to visit this site due to the restrictions in place by virtue of COVID-19. However, the intention is for a site visit to take place prior to the committee meeting.

Your officers remain in regular contact with colleagues in Environmental Health (EHD), the County Council, the Environment Agency (EA) and officers of Cheshire East planning.

The County Council, the EA and the officers of Cheshire East planning have all confirmed that they are not carrying out site visits due to the COVID-19 restrictions. Therefore, whilst they are aware of alleged activities taking place they will not be visiting this site in the near future.

A further update report will be provided prior to the planning committee meeting.

Date Report Prepared – 17<sup>th</sup> April 2020

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Planning Committee 28<sup>th</sup> April 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 7<sup>th</sup> January 202. 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 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>A site visit was undertaken some time ago which established that all the approved equipment has been provided within the second LEAP but not the benches. The developer was contacted and correspondence was received in January 2020 indicating that a site visit was to be carried out determine what works remained outstanding. However correspondence received earlier this month stated that the visit didn't take place and that due to the current lockdown situation they are now unable to visit the site. Assurances have been given that this will be rectified as soon as normal working conditions return.</p> <p>In respect of the NEAP 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 its provision.</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 a ‘start letter’ was issued by the Planning Inspectorate on 11<sup>th</sup> March setting out a timetable and confirming that the Hearing procedure is suitable and that they intend to determine the appeal by this procedure. In accordance with the timetable set out in the ‘start letter’ the Council must submit its statement of case by 22<sup>nd</sup> April 2020. Interested parties must submit their representations to the Planning Inspectorate by this date also. A date for the Hearing has not yet been agreed.</p>	<p>Adhere to the appeal timetable and await details of the arrangements for the Hearing</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 when such operations and activities at the site occur they result in a significant and detrimental harm to the residential and there is 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 affect. As yet confirmation has not been received that the appeal is valid.</p>	<p>Await the appeal 'start letter' and when received adhere to the appeal timetable.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
Barn 2, Moss House Farm, Eardleyend Road, Bignall End	18.6.19	<p>Full planning permission was granted at appeal for the conversion of the barn to two residential market housing units (Ref. 13/00755/FUL). An application was subsequently submitted in 2017 to retain alterations to the approved scheme (Ref. 17/00326/FUL) but it was evident that a substantial proportion of the building had been demolished and rebuilt. Such extensive rebuilding was considered to amount to a replacement building and therefore that application was refused on the grounds that planning permission for the retention of buildings to form two dwellings the development comprised inappropriate development within the Green Belt and very special circumstances did not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. An appeal against the Council's decision was subsequently dismissed with the Inspector also considering the development to comprise inappropriate development in the Green Belt.</p> <p>A subsequent application for the retention and alteration of the buildings to form two dwellings was refused by Planning Committee on 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 was received (19/00629/FUL) for the retention of the building for a use falling within Class B8 (storage and distribution). The application was refused on 6<sup>th</sup> March 2020.</p>	Instructions sent to Legal and enforcement notice issued.

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## Report on Open Enforcement Cases

### Purpose of the Report

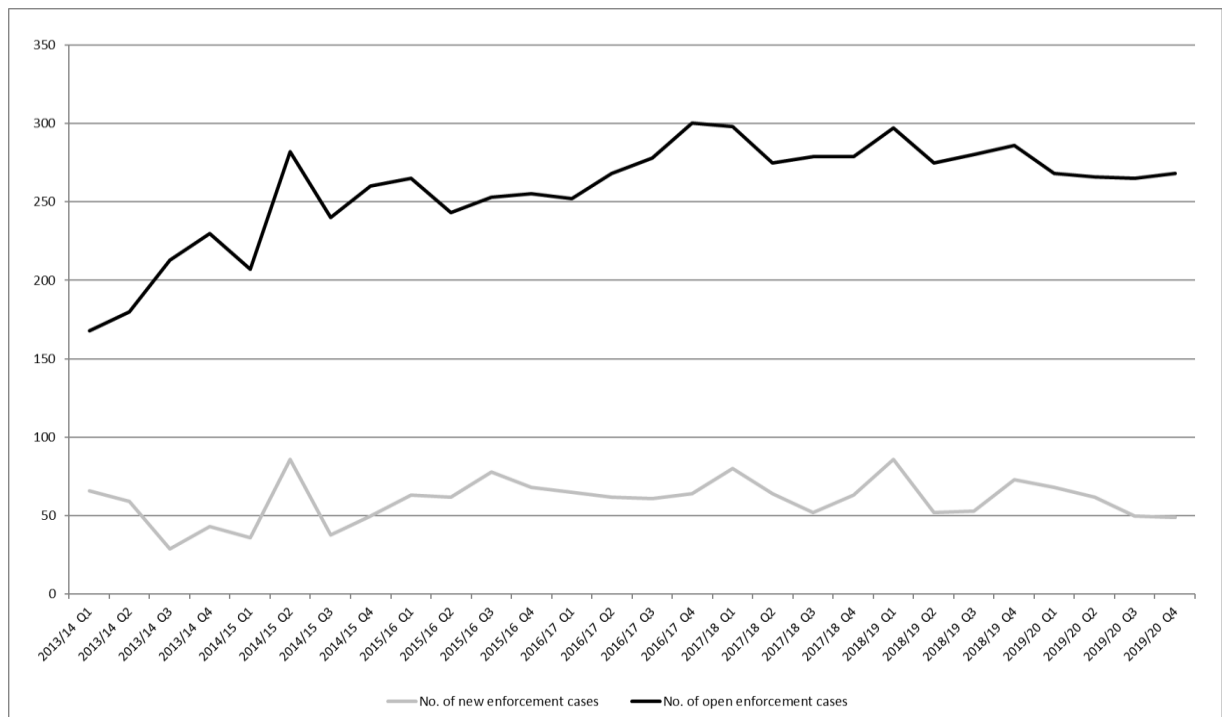
To inform members of the current situation regarding the enforcement caseload.

### 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 (January - March 2020) a further 49 new cases have been reported, less than the previous quarter (51). The current number of open cases is 268. The number of open cases has slightly increased in this quarter given that in the last quarter it was 266. Such figures are illustrated in the graph below.



A number of the cases have associated pending planning applications that are awaiting determination (13 as at 8 April 2020).

### Date report prepared

8 April 2020

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**APPEAL BY MR JONES AGAINST THE DECISION OF THE COUNCIL TO REFUSE  
OUTLINE PLANNING PERMISSION FOR THE ERECTION OF 6 DWELLINGS AT LAND  
ADJACENT TO PARK HOUSE, DALES GREEN ROAD, MOW COP**

<b><u>Application Number</u></b>	<b>18/00921/OUT</b>
<b><u>LPA's Decision</u></b>	<b>Refused on 29 March 2019</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Costs Decision</u></b>	<b>Refused</b>
<b><u>Date of Decisions</u></b>	<b>25 March 2020</b>

**Appeal Decision**

The Inspector identified the main issues to be;

- Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework);
- The effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on the character and appearance of the area; and
- If the proposal is inappropriate development, 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 it.

The conclusions of the Inspector are summarised as follows:

- The applicant has promoted the site as a Rural Exception Site (RES) but in the absence of adequate evidence to show the local community need for affordable housing and a mechanism to secure the provision of such housing, the appeal scheme would not accord with paragraph 145 (f) of the Framework. Nor would it constitute any of the other exceptions listed in paragraph 145. The proposal would be inappropriate development, which according to paragraph 143 of the Framework is, by definition, harmful to the Green Belt, and should only be approved in very special circumstances.
- There would be a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt, in addition to that arising from the inappropriate nature of the development.
- Although details of the design and layout of the scheme are not to be determined at this stage, a scheme could be designed so that it would not be detrimental to the character and appearance of the area. Therefore, the proposal would not be contrary to Policies CSP1 and CSP4 of the CSS or Policies N17 or N21 of the LP which seek to ensure that developments have a high quality of design that maintain and enhance natural assets and are sympathetic to the landscape character.
- The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, the proposal would result in further harm by causing a reduction in openness, and in being contrary to the purposes of including land within the Green Belt. According to the Framework (paragraph 144) substantial weight has to be given to any harm to the Green Belt. Whilst the proposal would not harm the character and appearance of the area, an absence of harm in this regard is a neutral matter. The factors cited in the scheme's favour do not clearly outweigh the harm it would cause. Consequently, very special circumstances do not exist, and the proposal would conflict with Policy S3 of the LP and the Framework.

### Costs Decision

The Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated, and thus an award of costs is not justified

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

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00921/OUT>

### **Recommendation**

That the appeal and costs decisions be noted.

**APPEAL BY MR AND MRS S WATSON AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR THE CONSTRUCTION OF A DETACHED DWELLING AT LAND BETWEEN WINDY RIDGE AND SIROCCO, LONDON ROAD, KNIGHTON**

<b><u>Application Number</u></b>	<b>19/00295/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused on 12 July 2019</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>30 March 2020</b>

**Appeal Decision**

The Inspector identified the main issues to be the accessibility of local facilities and services by means other than private car and the effect of the proposals on highway safety.

Regarding accessibility, the Inspector found that given the lack of safe access by foot or bike to the site and lack of transport links locally, the development conflicts with Policies SP3 and CSP1 of the local plan, and the recommendations of the Neighbourhood Plan. This conflict was attributed significant weight given the intention of the policies to promote safe and sustainable transport. Regarding highway safety, the Inspector found that any conflict could be overcome using a Grampian condition to prevent development until the speed limit is reduced. In conclusion, it was concluded that the overall benefits of the scheme would be limited and therefore the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits.

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/19/00295/FUL>

**Recommendation**

That the appeal decision be noted.

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**APPEAL BY MR JONATHON FELL C/O KAIZEN PROPERTY GROUP AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR THE ERECTION OF 2 X 3 BEDROOM SEMI-DETACHED DWELLINGHOUSES WITHIN THE EXISTING REAR GARDEN OF APPLICATION SITE, INCORPORATING THE PROVISION OF 4 PARKING SPACES, CYCLE SPACES AND REFUSE STORAGE, NEW BOUNDARY TREATMENT AND LANDSCAPING, AT 22 KING STREET, CROSS HEATH, NEWCASTLE-UNDER-LYME**

<b><u>Application Number</u></b>	<b>19/00135/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated authority on the 9<sup>th</sup> May 2019</b>
<b><u>Appeal Decision</u></b>	<b>Allowed</b>
<b><u>Costs Decision</u></b>	<b>Refused</b>
<b><u>Date of Decisions</u></b>	<b>3<sup>rd</sup> April 2020</b>

## Appeal Decision

The Inspector identified the main issues to be the effects of the development on the character and appearance of the area, including in respect of trees and the living conditions of the occupants of No. 22 King Street.

In discussing the implications on character and appearance, the Inspector, whilst accepting that the dwellings would not have a clear street presence nor align with the prevailing building line along King Street, considered that as there is a significant variety in the arrangement and orientation of the dwellings nearby, the dwellings proposed would not appear incongruous. In respect of trees, the Inspector found that the loss of T2 would not be significant and that T14 and T15 could be suitably retained. The Inspector concluded that the proposal would integrate appropriately with the character and appearance of the area, including as regards trees.

Turning to the living conditions of No. 22 King Street, the Inspector concluded that whilst accepting that the proposal would slightly affect the acoustic character of the area, it would not result in a significant change to the quality of life of the occupants of No. 22.

## Costs Decision

The Inspector concluded that no action or inaction taken by the Council in this instance amounts to unreasonable behaviour resulting in unnecessary expense. An award of costs is therefore not justified.

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

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00135/FUL>

## **Recommendation**

That the appeal and costs decision be noted.

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**APPEAL BY MR CHRISTOPHER WYNN-JONES AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR A SECOND STOREY EXTENSION OVER THE EXISTING GARAGE AND UTILITY ROOM AT 1, PRESTBURY AVENUE, NEWCASTLE-UNDER-LYME**

<b><u>Application Number</u></b>	<b>19/00742/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused on 7 November 2019</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>8 April 2020</b>

**Appeal Decision**

The Inspector identified the main issue to be the effect of the proposal on the living conditions of the occupiers of No 23 Aldeburgh Drive having particular regard to outlook.

The Inspector found that the proposal would have an adverse effect on the living conditions of the occupiers of No 23 Aldeburgh Drive in conflict with paragraph 127 of the National Planning Policy Framework which requires developments to create places which promote health and well-being, with a high standard of amenity for existing and future users. There would also be conflict with the aims of the SPG which supports developments that establish a good quality of life for residents, which avoids an enclosed or cramped outlook from habitable rooms.

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/19/00742/FUL>

**Recommendation**

That the appeal decision be noted.

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