

Public Document Pack

Date of meeting Tuesday, 14th September, 2021
Time 7.00 pm
Venue Astley Room - Castle
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 5 - 10)
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - LAND SOUTH OF HONEYWALL LANE, MADELEY HEATH. MR CHRIS ANDREWS. 21/00593/REM** (Pages 11 - 22)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - CHATTERLEY VALLEY DEVELOPMENT SITE, PEACOCK HAY ROAD. HARWORTH GROUP PLC. 21/00570/FUL** (Pages 23 - 32)
- 6 **APPLICATION FOR MAJOR DEVELOPMENT - CHATTERLEY VALLEY DEVELOPMENT SITE, PEACOCK HAY ROAD. HARWORTH GROUP PLC. 21/00595/FUL** (Pages 33 - 44)
- 7 **APPLICATION FOR MAJOR DEVELOPMENT - LAND TO THE NORTH EAST OF ECCLESHALL ROAD, SOUTH EAST OF PINWOOD ROAD AND NORTH WEST OF LOWER ROAD, HOOK GATE. VERVE SHREWSBURY LTD. 21/00834/FUL & 21/00835/FUL** (Pages 45 - 52)
- 8 **APPLICATION FOR MINOR DEVELOPMENT - PLUM TREE PARK FARM, CHURCH LANE, BETLEY. MR H KENNERLEY. 21/00499/FUL** (Pages 53 - 62)

| | | |
|----|---|-------------------------|
| 9 | APPLICATION FOR MINOR DEVELOPMENT - THE CHALET, BUNGALOW FARM, RYE HILLS. MR CARL BEESTON. 21/00702/FUL | (Pages 63 - 70) |
| 10 | APPLICATION FOR OTHER DEVELOPMENT - LAND ADJACENT WATERHAYS FARM TELEPHONE EXCHANGE CEDAR, ROAD. CK HUTCHISON NETWORKS (UK) LTD. 21/00757/TDET | (Pages 71 - 76) |
| 11 | LAND NORTH OF PEPPER STREET, KEELE. KEELE HOMES LIMITED. 21/00780/DOB | (Pages 77 - 82) |
| 12 | 5 BOGGS COTTAGE, KEELE. 14/00036/207C3 | (Pages 83 - 84) |
| 13 | LIST OF LOCAL VALIDATION REQUIREMENTS FOR PLANNING AND LISTED BUILDING CONSENT APPLICATIONS | (Pages 85 - 94) |
| 14 | HALF YEARLY REPORT ON PLANNING OBLIGATIONS | (Pages 95 - 104) |
| 15 | URGENT BUSINESS | |

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

Members: Councillors Andrew Fear (Chair), Marion Reddish (Vice-Chair), Silvia Burgess, Dave Jones, Sue Moffat, Gillian Williams, John Williams, Jennifer Cooper, Helena Maxfield, Paul Northcott, Mark Holland and Kenneth Owen

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

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

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

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

| | | |
|---------------------|---|---|
| Substitute Members: | Simon Tagg Barry Panter Stephen Sweeney Bert Proctor | Sylvia Dymond Mike Stubbs June Walklate |
|---------------------|---|---|

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

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

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

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

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE
STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

This page is intentionally left blank

PLANNING COMMITTEE

Tuesday, 17th August, 2021
Time of Commencement: 7.00 pm

Present: Councillor Andrew Fear (Chair)

| | | | |
|--------------|------------------|-----------------|-----------------|
| Councillors: | Marion Reddish | John Williams | Stephen Sweeney |
| | Silvia Burgess | Jennifer Cooper | Sylvia Dymond |
| | Sue Moffat | Paul Northcott | |
| | Gillian Williams | Mark Holland | |

| | | |
|-----------|----------------|---|
| Officers: | Elaine Moulton | Development Management Team Manager |
| | Nick Bromley | Senior Planning Officer |
| | Geoff Durham | Mayor's Secretary / Member Support Officer |
| | Shawn Fleet | Head of Planning and Development |

1. **APOLOGIES**

Apologies were received from Councillors Dave Jones, Helena Maxfield and Ken Owen.

Councillor Bert Proctor had intended to substitute for Councillor Owen but had injured himself falling. On behalf of the Committee, the Chair wished Councillor Proctor well.

2. **DECLARATIONS OF INTEREST**

Councillor Paul Northcott declared an interest in application 21/754/DOB – Mill Rise Care Village, Lower Milehouse Lane.

3. **MINUTES OF PREVIOUS MEETING**

Resolved: That the minutes of the meeting held on 20 July, 2021 be agreed as a correct record.

4. **APPLICATION FOR MAJOR DEVELOPMENT - JCB WORLD LOGISTICS WAREHOUSE (BLUE PLANET) UK INDUSTRIAL PROPERTIES S.A.R.L. 21/00600/FUL**

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

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

5. **.APPLICATION FOR MAJOR DEVELOPMENT - LAND SOUTH OF MARKET DRAYTON ROAD, LOGGERHEADS SHROPSHIRE HOMES LIMITED. 21/00601/FUL**

Resolved: That the variation of condition 16 of 17/00067/DEEM4 by omission of the final bullet point requiring a 2m wide footpath connecting the south-west part of the site to Kestrel Drive be permitted, and subject to any other conditions attached to planning permission 17/00067/DEEM4 that remain relevant at this time.

6. **APPLICATION FOR MAJOR DEVELOPMENT - LAND TO NORTH OF SHELTON BOULEVARD, THE SOUTH OF NEWPORT LANE AND IN BETWEEN FESTIVAL WAY AND THE A500 (QUEENSWAY), AND LAND AT GRANGE LANE, WOLSTANTON CITY OF STOKE-ON-TRENT COUNCIL. 21/00574/FUL**

Resolved: That the variation of Condition 2 of 20/00630/FUL be permitted, subject to the imposition of all other conditions attached to planning permission 20/00630/FUL that remain relevant at this time, amended as necessary.

7. **APPLICATION FOR MINOR DEVELOPMENT - PEAK PURSUITS, NANTWICH ROAD, AUDLEY PEAK ACTIVITY SERVICES - MR JOHN POTTER. 20/01045/FUL**

Councillor Sue Moffatt proposed that an advisory note be added, requesting that the Community Centre and Peak Pursuits work together over the management of the car park.

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

- (i) Planning permission for temporary 2 year period.
- (ii) Approved plans
- (iii) Lighting
- (iv) The parking area shall be provided in accordance with Drawing No. 006 with the spaces clearly delineated and retained for the two years in which the shipping containers will be located on site.

An advisory note be included in the decision notice stating that the Planning Committee request that the applicant have discussions with the Community Centre about the management of the car park.

8. **APPLICATION FOR OTHER DEVELOPMENT - 1 BERESFORD CRESCENT, NEWCASTLE UNDER LYME DR SHAMYLLA SAMAD. 21/00569/FUL**

Councillor Simon Tagg spoke on this application.

Amended recommendation proposed by Councillor Mark Holland and seconded by Councillor Paul Northcott.

The application was a resubmission of 21/54/FUL which had been refused by this Committee at the meeting held on 30 March, 2021.

Councillor Mark Holland made reference to the three grounds on which the previous application had been refused. Officers had stated that the dimensions of the proposed extension had been reduced. This amounted to 20cm off the front and 19cm off the side and Councillor Holland was not convinced that the first reason for refusal on the previous application, relating to size and massing had been addressed.

Councillor Holland stated that he would be interested to hear other Members' views regarding the second reason for refusal. That was in relation to encroachment into the root protection area of a highways tree. The Council's Landscape Officer's view was that the revised application plans were now acceptable.

The third reason for refusal of the previous application was for lack of parking spaces. Councillor Holland pointed out that in March, reference was made to the internal dimensions of the garage being 2.4m by 5.2m. However, the Manual for Streets asked for 3m by 6m to accommodate a parked vehicle. Therefore the garage could not count as a space. In the previous application, the Highways Authority objected to the garage being counted as a parking space on the grounds of the dimensions. Councillor Holland asked to see drawing P02 in its unrevised state and drawing 593.01 of the original application as they gave different dimensions.

Elaine Moulton showed that plans and a photograph of a vehicle inside the garage with the door open. It was physically possible to park a car. The two plans requested by Councillor Holland did have different dimensions. The photograph showed the garage being narrower in the centre which was not reflected on the plans.

The Chair asked if the guidance spoke of parking spaces for a particular type of vehicle, for example four door or simply as a parking space. Elaine Moulton stated that, given the dimensions given by the Highways Authority, the garage would appear to be a generous parking space, although the garage would not accommodate a larger vehicle. The Council's Head of Planning and Development, Shawn Fleet advised that paragraph 8.3.41 of the Manual for Streets referred to parking in garages and mentioned dimensions of 3 by 6m for a garage. However, many Authorities now recommended a minimum size as desirable.

The garage was one of three spaces at the property so therefore, any larger vehicle could park in one of the outside spaces.

The Chair referred back to the size and massing of the extension and asked officers for the size in terms of square metres of the new proposal as opposed to the previous proposal.

Elaine Moulton confirmed that the proposed extension that was refused would have increased the volume by 61% and the proposal was now 57.5% therefore a reduction of 2.5%. In terms of volume it was similar but in terms of appearance it was more subordinate.

Councillor John Williams asked to see the plan indicating the 'building lines' for the area which showed that the furthest most corner of the extension did not extend forward of the building line.

Councillor Holland moved refusal on the grounds of size and mass as it was still unacceptably large.

Resolved: That the application be refused on the grounds of unacceptable

design and massing resulting in harm to the character and appearance of the area.

9. APPLICATION FOR OTHER DEVELOPMENT - COMMUNICATION MAST, PEPPER STREET, NEWCASTLE UNDER LYME CK HUTCHISON NETWORKS (UK) LTD. 21/00701/TDET

- Resolved:** (i) That prior approval be required, and
(ii) That such prior approval be granted

10. LAND AT DODDLEPOOL, BETLEY REFERENCE 17/00186/207C2

Senior Planning Officer, Nick Bromley advised Members that further advice had not been received from the Environment Agency regarding matters requiring clarification.

Resolved: That the information be received.

11. UPDATE ON BREACH OF PLANNING OBLIGATION ENTERED INTO IN ASSOCIATION WITH 11/00284/FUL FOR THE ERECTION OF TWENTY THREE HOUSES AT THE FORMER SITE OF SILVERDALE STATION AND GOOD SHED, STATION ROAD, SILVERDALE

The Council's Head of Planning and Development, Shawn Fleet advised Members that the Council was in communication with its solicitors and receiving advice. The actual steps to enforcement were being worked on within the office but the case could lead to prosecution so detail of how the case would be built was currently being prepared.

Resolved: That the information be received.

12. MILL RISE EXTRA CARE VILLAGE, LOWER MILEHOUSE LANE ASPIRE HOUSING. 00754/DOB

Councillor Northcott did not vote on this item.

Councillor Moffatt asked what the changes would actually mean, as outlined in the proposal.

Elaine Moulton advised that the Section 106 Agreement secured affordable housing which was a combination of shared ownership and social rented units. The applicant was seeking to vary, to make it more flexible, so that Aspire could purchase some of the shared ownership units to make them available as social rented units as there had been issues with shared ownership units with people being unable to sell them on if inherited from a deceased relative. The proposal would change the proportions between the two types of units.

Resolved: That the application to modify the S106 agreement, by amending the definition of Extra Care Shared Ownership Units and Extra Care Rented Residential Units to enable flexibility to change tenures, be approved.

13. APPEAL DECISION - APPEAL BY MR GARY BASKERVILLE AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR

**A NEW 3 BED DETACHED DWELLING WITH INTEGRAL GARAGE AT LAND
ADJACENT TO PARK HOUSE, DALES GREEN ROAD, MOW COP**

Resolved: That the appeal decision be noted

14. **URGENT BUSINESS**

There was no Urgent Business.

CLLR ANDREW FEAR
Chair

Meeting concluded at 8.35 pm

This page is intentionally left blank

LAND SOUTH OF HONEYWALL LANE, MADELEY HEATH
MR CHRIS ANDREWS

21/00593/REM

The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 34 dwellings.

This application for the approval of reserved matters follows the granting of an outline planning permission in August 2018 for a residential development of up to 35 dwellings (17/00514/OUT). Details of access from the highway network were approved as part of the outline consent.

The applicant also wishes to modify the terms of the secured S106 Agreement following part of the site, which formed part of the outline planning application, being sold since the decision. The applicant has also advised that the scheme cannot support the secured level of S106 Obligations

The application site lies on the southern side of Honeywall Lane, outside the village envelope of Madeley Heath, within the open countryside and on land designated as an Area of Landscape Restoration all as indicated on the Local Development Framework Proposals Map. The site does not lie within the Green Belt. The site extends to approximately 1.75 hectares in area.

Honeywall Lane connects to Ridge Hill Drive which in turn connects to the A525.

The 13 week period for the determination of this application expires on the 10th September 2021.

RECOMMENDATIONS

- A) That the application to modify the S106 agreement, to change the red edge site boundary and to secure a financial contribution of £83,110 towards secondary school places at Madeley High School, Madeley and a review mechanism of the scheme's ability to make a more or fully policy compliant contribution to education places, off site public open space and/ or affordable housing, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution if then found financially viable, be approved.**
- B) Permit the reserved matters application, subject to conditions relating to the following matters:-**
- 1. Link to outline planning permission and conditions;**
 - 2. Approved plans;**
 - 3. Facing and roofing materials;**
 - 4. Prior approval of finished ground and floor levels.**
 - 5. Boundary treatments;**
 - 6. 1.8 metre high acoustic barrier on the southern boundary;**
 - 7. Provision of roads, footways, parking, servicing and turning areas;**
 - 8. Parking areas surfaced in a porous bound material;**
 - 9. Construction Management Plan;**
 - 10. Provision of soft and hard landscaping scheme/ strategy;**
 - 11. Landscape and highways management and maintenance plan;**
 - 12. Trees and hedgerows shown as retained shall be retained and protected throughout construction;**
 - 13. Prior approval of crime prevention and security measures;**
 - 14. Prior approval of overheating assessment/ or overheating mitigation for plots 1 & 2;**
 - 15. Surface water drainage;**
 - 16. Sustainable drainage management and maintenance plan;**
 - 17. Waste and recycling storage and collection arrangements;**
 - 18. Approval does not constitute the LPA's approval pursuant subject of other conditions of the outline planning permission, these needing to be subject of separate application**

Reason for Recommendation

The proposed development represents a high quality design that would enhance the landscape and would be suitable for the site and the character of the area. The development for 34 dwellings would also provide acceptable living conditions for future occupiers and protect the residential amenity levels of neighbouring occupiers. Any issues can be addressed by suitably worded conditions and on this basis the scheme is acceptable and meets development plan policies and the requirements of the National Planning Policy Framework.

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

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

The LPA and applicant have engaged in extensive pre application enquiry discussions and the LPA has requested further information during the consideration of the application to address concerns. Following the submission of further information the proposed development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Key Issues

1.1 The Application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 34 dwellings. The principle of the residential development of the site has been established by the granting of outline planning permission 17/00514/OUT in August 2018, following the completion of a Section 106 agreement which secured 25% Affordable Housing onsite, a financial contribution of £5,579 per dwelling towards the maintenance and improvement of public open space at the playground facilities at Heath Row, Madeley Heath and £77,217 towards primary school places at Sir John Offley CE(VC) Primary School in Madeley and £83,110 towards secondary school places at Madeley High School, Madeley

1.2 The application site lies on the southern side of Honeywall Lane, outside the village envelope of Madeley Heath, within the open countryside and on land designated as an Area of Landscape Restoration all as indicated on the Local Development Framework Proposals Map. The site does not lie within the Green Belt. The site extends to approximately 1.75 hectares in area.

1.3 Honeywall Lane connects to Ridge Hill Drive which in turn connects to the A525

1.4 The applicant also wishes to modify the terms of the secured S106 Agreement following part of the site, which formed part of the outline planning application, being sold since the decision. The applicant has also advised that the scheme cannot support the secured level of S106 Obligations.

1.5 The reserved matters application is an appropriate point to reconsider and secure any modifications to the S106 Agreement. The outline planning permission remains extant and given that this is a reserved matters application the key issues for consideration now are limited to:-

- The design of the scheme and the impact on the form and character of the area, including loss of hedgerows;
- The impact on the residential amenity and living conditions of neighbouring and future occupiers;
- Access, parking and highway safety matters;
- Sustainable drainage considerations and
- Planning obligations and financial viability.

2.0 The design of the scheme and the impact on the form and character of the area, including loss of hedgerows

2.1 Paragraph 126 of the recently published revised National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 130 of the revised 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 CSP1 of the Core Spatial Strategy (CSS) lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the revised NPPF.

2.3 Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. In particular, Policy R14 states that developments must provide an appropriate balance of variety and consistency.

2.4 The application site adjoins the village envelope of Madeley Heath to the north with Marley Eternit Building Materials site to the south and existing residential dwellings that front Ridge Hill Drive to the west.

2.5 The layout of the scheme is similar to the indicative layout presented at the outline stage but the proposed development seeks to create a community ethos and the application sets out that a key design driver for the scheme is the creation of three character areas; "The Lane", "The Yards" and "The Common". These character areas will have subtle differences in architectural styles but will be a mix of two storey terrace, semi-detached and detached house types.

2.6 The proposed dwellings will be enhanced by use of high quality bricks, with feature brick detailing and roof tiles. The development has also been varied by the roof tile selection and rotated roof pitches which will add further interest. The proposed scheme will also be enhanced by a high quality hard and soft landscaping scheme which will further supplement the design of the proposed scheme.

2.7 The scheme is also supported by a landscape strategy, which incorporate sustainable drainage features towards the south of the application site whereby a communal landscaped area and swale (attenuation pond) is to be located. This area acts as a landscape buffer between the industrial/commercial uses towards the south and the proposed residential development. The principle of this landscaped buffer is supported, as is the communal use of the area and the swale but a condition is considered necessary to ensure that these areas are appropriately managed by future residents.

2.8 Additional to the landscape buffer the application seeks to retain trees and hedgerows on Honeywall Lane and the Landscape Development Section (LDS) has requested further information to satisfy concerns regarding the impact of the development on these features. This has resulted in the applicant submitting further information and the comments of LDS are awaited. However, suitably worded planning conditions can secure acceptable details if necessary.

2.9 The Crime Prevention Design Advisor (CPDA) has commented on the design of the scheme with particular attention to security and crime prevention. In particular, concerns are raised about the height of boundary fences and the landscaped buffer/ communal area to the south of the application site.

2.10 The applicant has considered the comments and advice of the CPDA, in particular those associated with the height of boundary fences. However, due to their design philosophy for the development, which specifically intends to provide a sense of openness, promote social interaction and create a mixed community, the applicant is reluctant to increase the height of rear boundary features/ treatments from 1.2 metres to 1.8 metres. The applicant is keen to emphasise that the scheme has been specifically designed to enhance passive surveillance and increase the sense of community, providing opportunities for neighbours to engage with one another where possible. They believe that future residents will be attracted to live at the site due to its community-led nature which forms an intrinsic part of the design and sets it apart from other similar developments.

2.11 The CPDA has further considered these comments with scepticism and whilst your officers share this scepticism, it is considered that, on balance, the design philosophy of the scheme can be supported, subject to a condition which secures other security measures, as opposed to insisting on 1.8 metre high rear boundary treatments. These improvements can be secured in consultation with the CPDA.

2.12 The scheme has been presented to a design review panel, as encouraged by your officers and paragraph 133 of the NPPF, and it is accepted that the scheme has been well considered and whilst it would contrast with the vernacular of the immediate area it is accepted that the site represents a suitable opportunity to exploit a contrasting design. It is considered that the proposed design is a high quality design and is in accordance with the principles of the urban design guidance, policy CSP1 of the CSS and the guidance and requirements of the NPPF.

3.0 The impact on the residential amenity and living conditions of neighbouring and future occupiers

3.1 Paragraph 130 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. It further sets out at paragraph 185 that decisions should also ensure that new development reduces potential

adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life.

3.2 The application site is within close proximity to the Marley Eternit tile works/ factory to the south, Chantler Timber yard to the east and Keele Quarry to the southeast.

3.3 The principle of residential development on the site was established when the outline planning application was permitted. The application was supported by a noise assessment report (NAR) which concluded that road traffic sound can be mitigated by design measures to ensure that internal noise levels within the proposed dwellings can be achieved. A 2.2 metres high acoustic barrier on the southern boundary was also recommended to mitigate the impact from the neighbouring commercial/ industrial uses on future occupiers of the residential dwellings on the site.

3.4 This application is supported by an updated NAR, dated 25 June 2020, to reflect the layout and design of the scheme. The NAR concludes that an acoustic barrier on the southern boundary is required to the rear of plots 13 to 22 and design measures for plots 1, 2, 13 to 24 & 34 are required to minimise traffic and commercial noise on future occupiers. The NAR advises that the proposed barrier needs to be a minimum of 1.8 metres in height and the submitted plans show a 1.8 metre high timber fence on the southern boundary, which is at the rear of plots 13-22.

3.5 The Environmental Health Department (EHD) has advised that the recommended mitigation measures set out in the NAR are appropriate but a further overheating assessment/or overheating mitigation for plots 1 & 2 will need to be secured by planning condition. They also advise that all other issues of concern are covered by conditions secured by the outline planning permission.

3.6 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.

3.7 In terms of the proposed layout of the scheme, it is considered that acceptable separation distances between existing dwellings on Ridge Hill Drive/ Honeywall Lane and the proposed dwellings is achieved to ensure acceptable living conditions for existing neighbouring properties and future residents of the development. It is also considered that each proposed dwelling would have an acceptable level of private amenity space. Additionally, the scheme will include generous communal areas which are designed to encourage community engagement. This will include an orchard, allotments, picnic areas, and a woodland trail together with semi-shared character areas.

3.8 Overall, the proposal is considered to meet the guidance and requirements of the NPPF.

4.0 Access, parking and highway safety matters

4.1 Details of the access to the site were approved when outline planning permission was granted, which proposed two access points off Honeywall Lane with the main access point serving an indicative layout of 34 dwellings. The other access point, located further along Honeywall Lane, was to serve a detached dwelling only. This part of the site has been sold separately and no longer forms part of this development. Therefore the single access point off Honeywall Lane is the only access point and would continue to serve 34 dwellings.

4.2 Paragraph 111 of the NPPF 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 on the road network would be severe.

4.3 The outline permission secured, via conditions 10 & 11, a number of highway improvements to Honeywall Lane and its junction with Ridge Hill Drive. These works are still required to ensure acceptable access arrangements.

4.4 The internal access roads, parking and turning arrangements are now submitted for approval.

4.5 The proposed dwellings would be a mix a 2 and 3 bedroom properties and each dwelling would have two off street car parking spaces. This is considered acceptable for this location.

4.6 The Highways Authority has raised no objections subject to conditions which secure the parking and surfacing materials, along with a construction management plan. However, the Councils Waste Management Section has raised concerns about the un-adopted status of the road layout, along with concerns about whether a 26 tonne refuse freighter can turn within the site.

4.7 The applicant has advised that the road layout can accommodate a 30 tonne refuse freighter and that the road would be un-adopted but would be maintained by a private management company who would be responsible for all repairs/damage to the road. The applicant accepts that this would need to be secured by a suitably worded planning condition. In all other respects, the waste storage and collection arrangements for the proposed development are considered acceptable.

4.8 Subject to the advised conditions, the proposed development is considered unlikely to lead to significant highway safety and on street car parking implications within the development site or on neighbouring roads. The development would therefore meet the guidance and requirements of the NPPF.

5.0 Sustainable drainage considerations

5.1 Policy CSP3 of the CSS indicates that development which positively addresses the impacts of climate change and delivers a sustainable approach will be encouraged.

5.2 Paragraph 152 of the revised NPPF also recognises that “Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development”.

5.3 The outline permission required the submission of specific details of the surface water drainage scheme as part of the reserved matters application. This information has now been submitted and the LLFA are content with the surface water drainage scheme but a condition to secure its implementation, as well as specific mitigation measures, is necessary.

5.4 The scheme has incorporated an acceptable sustainable drainage strategy and therefore accords with local and national planning policy.

6.0 Planning obligations and financial viability

6.1 A Section 106 planning obligation, entered into when outline planning permission was granted, requires the provision of 25% Affordable Housing onsite, a financial contribution of £5,579 per dwelling towards the maintenance and improvement of public open space at the playground facilities at Heath Row, Madeley Heath and £77,217 towards primary school places at Sir John Offley CE(VC) Primary School in Madeley and £83,110 towards secondary school places at Madeley High School, Madeley.

6.2 As discussed, the applicant now wishes to modify the terms of the secured S106 Agreement following part of the site, which formed part of the outline planning application, being sold since the decision. The applicant has also advised that the scheme cannot support the secured level of S106 Obligations, on the basis that the secured obligations would render the scheme unviable.

6.3 Independent financial advice has been sought and has now been received by the Authority. The report of Butters John Bee (BJB) confirms that the scheme cannot support the policy compliant contributions but that there is a possibility that the scheme could support a financial contribution of £83,110.

6.4 The NPPF indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not

presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Local Plan is finalised. The scheme does provide benefits, most notably the provision of 34 dwellings in a sustainable rural location. The development would also contribute to housing supply in the Borough and the financial viability appraisal concludes that the scheme can support a financial contribution. Therefore, in this instance the committee will need to decide which of the previously secured obligations is the most necessary to make the development acceptable.

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

6.6 34 dwellings would trigger a need for 9 affordable units on the site and a financial contribution of £189,686 (index linked) towards the maintenance and improvement of public open space at the playground facilities at Heath Row, Madeley Heath, along with a financial contribution of £77,217 towards primary school places at Sir John Offley CE(VC) Primary School in Madeley and £83,110 towards secondary school places at Madeley High School, Madeley.

6.7 In this case, your Officer would suggest that the provision of school places is the priority in this instance and the County Council, as the Education Authority, has advised that the preference is for the entire financial contribution to be allocated to the provision of secondary school places which will suitably mitigate the impact of the proposed development. On this basis the financial contribution should be secured for secondary school provision, instead of providing affordable housing, public open space improvements and primary school provision.

6.8 That said, market conditions, and thus viability, can change. On this basis it would be quite reasonable and necessary for the Local Planning Authority to require the independent financial assessment of the scheme to be reviewed if the development has not been substantially commenced within 12 months of the grant of the permission, and upward only alterations then made to the contributions if the scheme is then evaluated to be able to support higher contributions. This would need to be also secured via the Section 106 agreement, as would the revision of the red edge application site to reflect the changes to the ownership of the land.

7.0 Reducing Inequalities

7.1 The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

7.2 The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

7.3 People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

7.4 When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

7.5 With regard to this proposal it is noted that access to all dwellings will be level and compliant with Part M of Building Regulations. It is therefore considered that it will not have a differential impact on those with protected characteristics.

APPENDIX

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

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

Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing

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

Policy T16: Development – General Parking Requirements
Policy N3 Development and Nature Conservation – Protection and Enhancement Measures
Policy N4 Development and Nature Conservation – Use of Local Species
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character – General Considerations
Policy C4: Open Space in New Housing Areas

Other Material Considerations include:

[National Planning Policy](#)

[National Planning Policy Framework](#) (July 2021)

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD](#) (2009)

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

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

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

[Relevant Planning History](#)

17/00514/OUT Up to 35 dwellings including associated infrastructure Permitted

[Views of Consultees](#)

Madeley Parish Council has reservations regarding highway access and parking, but accepts that these matters will be considered during the application process.

The **Highways Authority** raises no objections subject to conditions which secure the access, footways parking, servicing and turning areas; surfacing of parking to be a porous bound material; and the prior approval of a highways construction management plan.

The **Waste Management Section** raises concerns about the un-adopted status of the road layout, along with concerns about whether a 26 tonne refuse freighter can turn within the site.

Additional concerns are raised about access to a single property on Honeywall Lane but this property is no longer included within the red edge application site.

The **Environmental Health Officer** raises no objections to the proposals and advises that Marley no longer tip fired waste at night time and on this basis the recommendations of the acoustic assessment are acceptable but an over-heating assessment/or overheating mitigation for plots one and two will need to be secured by condition. All other issues of concern are covered by conditions within the outline permission.

The **Landscape Development Section** raises concerns regarding the proximity of the development to retained trees and the loss of hedgerow to accommodate appropriate visibility splays.

The **Housing Strategy Officer** draws attention to the previously approved outline consent which secured 25% onsite affordable housing provision (60% social rented houses and 40% shared ownership) which was secured through a S106 agreement.

The **Crime Prevention Design Advisor** refers to the good level of natural surveillance throughout the site but draws attention to some areas of concerns relating to the security of private gardens, proximity to publically accessible spaces, lighting and home security.

The **County Flood Authority** raises no objections following the submission of additional information, as requested by the LLFA. A condition which secures the implementation of the surface water drainage scheme and mitigation measures is necessary.

United Utilities advise that the proposed drainage arrangement as shown on Dwg No. 0001, Rev. P04 Dated 31.07.20 are acceptable in principle and so raise no objections to the application subject to conditions relating to management and maintenance of the systems.

In the absence of any comments from the **Public Rights of Way Officer** by the due date it must be assumed that they have no observations to make upon the application.

Representations

None received.

Applicant's/Agent's submission

The application is accompanied by the following key documents;

- Planning Statement;
- Design and Access Statement;
- Arboricultural Report
- Noise Impact assessment;
- Landscape Strategy;
- Preliminary Risk Assessment – land contamination;
- Geo-Environmental Assessment - land contamination;
- Written Scheme of Investigation (WSI) for a programme of archaeological evaluation works;
and
- Surface water flows

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/21/00593/REM>

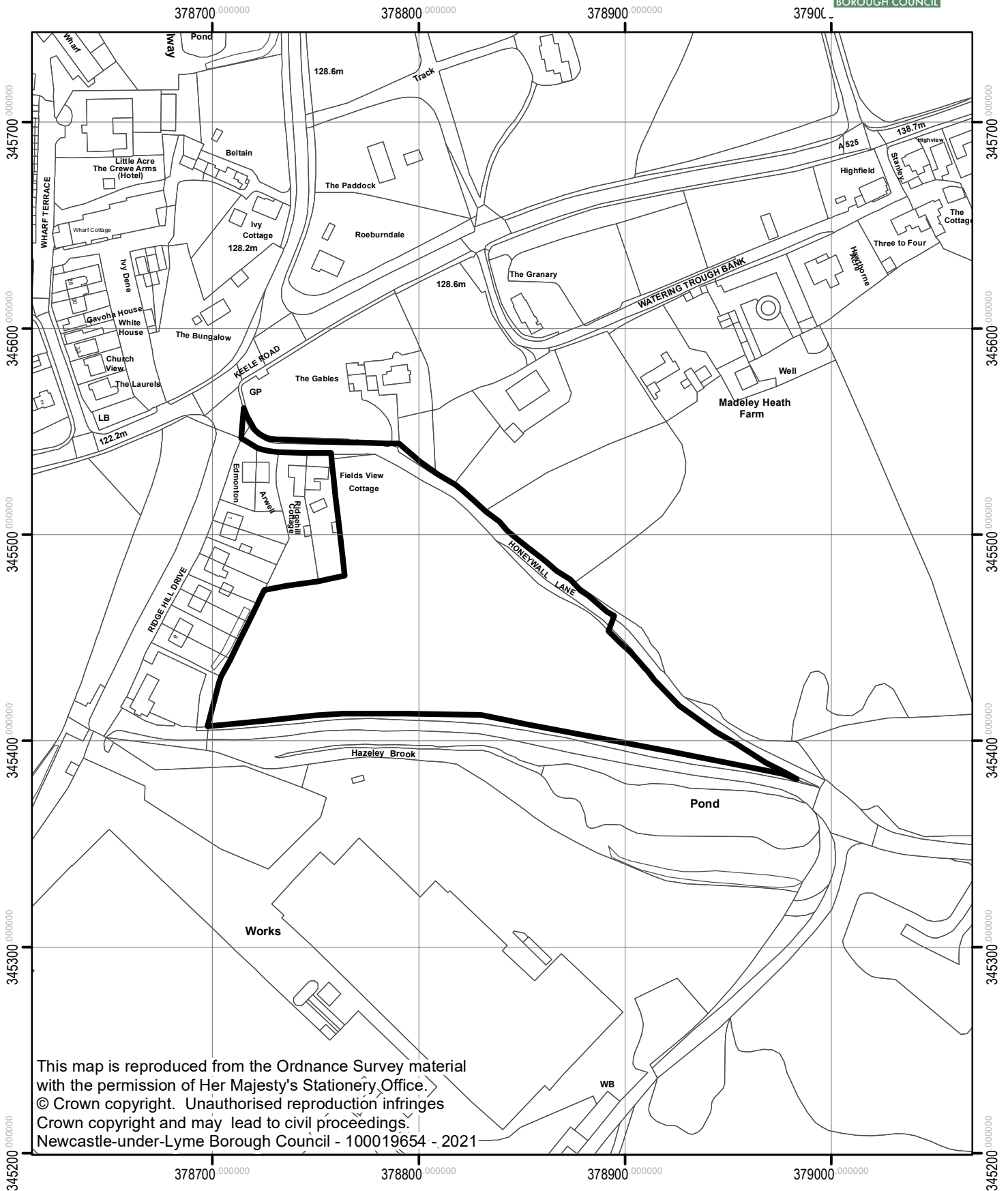
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

1st September 2021

Land South Of Honeywall Lane, Madeley Heath - 21/00593/REM



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings. Newcastle-under-Lyme Borough Council - 100019654 - 2021

This page is intentionally left blank

CHATTERLEY VALLEY DEVELOPMENT SITE, PEACOCK HAY ROAD
HARWORTH GROUP PLC

21/00570/FUL

The application is for full planning permission for the formation of development platforms, provision of access road and accompanying infrastructure and ecological enhancements.

The Newcastle Local Plan Proposal allocates, at policy E2, the site which measures 22.7ha, for employment development.

The application site is located within a Mineral Safeguarding Area as defined in the Minerals Local Plan for Staffordshire (2017). Part of the site is a designated Site of Biological Importance.

A number of public rights of way cross the site.

The 13 week period for the determination of this application expires on the 6th September 2021.

RECOMMENDATIONS

PERMIT the application subject to conditions relating to the following:

- i. Time limit**
- ii. Implementation in accordance with the approved plans**
- iii. No development to commence until a Sustainable Drainage Strategy has been submitted and agreed, which is to be fully implemented.**
- iv. No development to commence until intrusive site investigation works and remedial works have been undertaken in accordance with approved details.**
- v. Detailed structural landscaping scheme to be submitted and approved within 12 months of the commencement of the earthworks. The scheme is to accord with the Green Infrastructure Strategy and should include the planting of a verge adjoining the footpaths. The structural landscaping scheme shall be implemented prior to any construction of buildings commences.**
- vi. Approval of tree and hedgerow protection measures.**
- vii. Approval and implementation of woodland and landscape management plans.**
- viii. No development shall take place on any part of the site until the development has secured the implementation of a programme of archaeological works**
- ix. Limit on the number of daily HGV movements for the duration of the earthworks to a maximum of 250 HGV movements per day.**
- x. Approval and implementation of a Construction Traffic Management Plan**
- xi. The reporting of unexpected contamination and preventing the importation of soil or soil forming material without approval.**

Reason for Recommendation

This forms part of a strategically significant employment development in accordance with the development plan and regeneration strategies for the area. The proposal accords with the provisions of the approved development plan for the area and there are no other material considerations which would justify refusal of the application. It is considered that provided the development is undertaken in accordance with the conditions listed above appropriate mitigation of any effects arising from the development will have been obtained. As such it is considered that planning permission can be granted.

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

Officers have been in discussions with the applicant to address concerns raised by consultee and this has resulted in amended and additional information and plans being submitted.

Key Issues

1.1 The site, Chatterley Valley, is a key development site which has a long standing employment allocation. The site is currently vacant and in part has been previously used for mining and quarrying operations. It extends to an area of 22.7ha.

1.2 It forms part of a larger, 44ha, site which has an extant hybrid planning permission, under planning permission 18/00736/OUT, as varied by planning permission 19/00836/OUT, which secured;

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

1.3 The proposal in this application comprises the redevelopment of the site to provide development plateaus on the part of the wider Chatterley Valley site where earthworks haven't already been approved. The earthworks proposed involve significant cut and fill operations to create viable and notionally level development plots. The development plots formed by this application step down from the plateaus formed in the northern part of the site that has already been approved. The northern plateaus are subject to application 21/00595/FUL, which is reported on this agenda, which involves adjustments to the earthworks already approved to accommodate the larger plateaus that are proposed within this application.

1.4 As indicated above, outline planning permission has already been granted on this site. Bearing in mind the planning history of this site and the nature of the proposals in this application, the issue of principle does not require consideration.

1.5 When granting permission under reference 18/00736/OUT it was concluded that the proposal is compliant with the relevant part of saved NLP policy E2 as it had been demonstrated that the extraction of the marl would not jeopardise the realisation of the site's development prospects and that the benefits of this development outweigh the material planning benefits of the extraction of the underlying or adjacent mineral. Given that the Minerals Planning Authority have raised no objections to this proposal the same conclusions can be reached in this case.

1.5 The issues to be addressed within this report are therefore as follow;

- Impact on rail safeguarding area
- Visual impact of the development.
- Highway safety

2.0 Impact on rail safeguarding area

2.1 Saved Local Plan policy E2 indicates that the potential for rail freight access to the site should be safeguarded and exploited and the potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

2.2 The previous planning permissions did not secure a rail passenger station as it was not feasible to do so. There have been no material changes in circumstances since those decisions to conclude that this is now a possibility. The lack of a station as part of the current proposal is therefore acceptable.

2.3 The extant hybrid planning permissions did not specify the final ground levels for the lowest southernmost plateaus, which form part of this application site, to ensure that the option remained for them to be occupied by a development that could be served by rail from the adjoining railway line should there be a demand from such an operator in the future. At that time the applicant indicated that there was doubt as to whether it would be feasible that the site will be developed and occupied by a rail-connected employment use but the proposal as submitted nevertheless safeguarded this option.

2.4 The proposed finished levels of the, lower, plateaus that are proposed in this application mean that the potential for rail freight access is no longer safeguarded.

2.5 The applicant advises that the sidings access directly onto the West Coast Main Line and as such the opportunity to access the site during the day is severely compromised with very few times available for any operator to access the line from the site, because of the speed differences between freight and passenger trains. In addition the submission indicates that the site has been throughout the entire planning process but has resulted in no demand from an operator who wishes rail freight access. Some interest has been received from rail operators but it has not proved to be commercially acceptable and has since been fulfilled elsewhere.

2.6 It is considered that the applicant has explored the opportunity to utilise the rail sidings and has demonstrated that it is not deliverable. It is also acknowledged that the retention of the sidings would reduce the development capacity of the site due to the required changes in levels, which would result in a less efficient use of the allocated site. It is therefore considered that the loss of the opportunity for rail freight access to the site can be accepted.

3.0 Visual impact of the development

3.1 Saved NLP policy N17 indicates that development should be informed by and be sympathetic to landscape character and quality and should contribute, as appropriate, to the regeneration, restoration, enhancement, maintenance or active conservation of landscape likely to be affected.

3.2 Core Spatial Strategy CSP1 indicates that new development should be well designed to respect the character, identity and context of Newcastle'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.

3.3 Saved Local Plan policy E2 requires development at Chatterley Valley should provide high quality landscaping to enhance the setting of development and the nature conservation value of the site should be enhanced and habitat linkages provided and that the design of development should be high quality.

3.4 This issue was considered when the hybrid planning application was granted and the proposal in this application is largely consistent with that development as the extent of the structural landscaping to the boundaries of this site as proposed is similar to that shown in the extant planning permissions. The submission does, however, show additional tree losses when compared to the outline application around the pond and woodland area. The Landscape Development Section (LDS) has raised concerns about this aspect of the development and the applicant has been asked to give further consideration to the retention of further trees in this area.

3.5 Subject to the retention of more trees it is considered that the structural landscaping is appropriate and acceptable, and accords with the requirements of policy E2 in this regard. Full details will, however, need to be secured by condition.

4.0 Highway safety

4.1 The NPPF indicates at paragraph 111 that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.2 Access into the Chatterley Valley development as approved in the extant planning permission is off Peacock Hay Road via a new roundabout. The proposals in this application involve the formation of an access road to serve the plateaus as an extension of the access already permitted in principle.

4.3 The Highway Authority (HA) has indicated that they are generally supportive of the application but do have some reservations that certain elements could be premature and difficult to agree at this time, for example the vertical alignment taken from the roundabout, which is yet to be finalised. HA has therefore recommended conditions which would restrict certain movements through a

Construction Environmental and Traffic Management Plan. Similar requests have been advised by Highways England.

4.4 Given the extant permission has already approved the principle of the development of this site and the earthwork and access details are generally acceptable there is no highway safety reason to withhold planning permission.

5.0 Reducing Inequalities

5.1 The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

5.2 The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

5.3 People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

5.4 When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

5.5 With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics.

APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

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

Policy E2: Chatterley Valley
Policy T9: Rail Freight
Policy T16 Development – General Parking Requirements
Policy N2: Development and Nature Conservation – site surveys
Policy N3: Development and Nature Conservation - protection and enhancement measures
Policy N4: Development and Nature Conservation – use of local species
Policy N10: New Woodland – considerations
Policy N12: Development and the protection of trees
Policy N14: Protection of landscape features of major importance to flora and fauna

[Minerals Local Plan for Staffordshire \(2015-2030\)](#)

Policy 3: Safeguarding Minerals of Local and National Importance and Important Infrastructure

Other Material Considerations include:

National Planning Policy

[National Planning Policy Framework](#) (2021)

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

Relevant Planning History

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

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

An application, 19/00846/OUT, was permitted. The application was to remove condition B23, relating to pedestrian and cycleway enhancements, of planning permission 18/00736/OUT and variation of condition A1 relating to timescales for completion of earthworks; variation of conditions A8, B1 and B10 with regards to reference to Green Infrastructure Strategy; variation of condition B3 regarding requirements for the reserved matters application/s; and variation of reason for condition B25 relating to permitted use classes on the plots.

Another application, 21/00595/FUL, for the removal of condition B25 (permitted use classes) of planning permission 19/00846/OUT and variation of condition A2 (approved plans), A8 (structural landscaping scheme), B1 (Green Infrastructure Strategy), B6 (remedial works), B7 (Talke Roundabout works), B9 (roundabout access), B10 (structural landscaping), B11 (internal spine road), B13

(landscaping), B23 (pedestrian and cycleway enhancements) and B31 (mitigation scheme for the A500/A34 junction) is pending consideration.

Views of Consultees

The **Environmental Health Division** commenting upon issues of contamination recommend that contaminated land conditions are imposed on any planning permission that is granted.

Highways England recommend that conditions relating to the following should be attached to any planning permission that may be granted:

- Limit on the number of daily HGV movements for the duration of the earthworks to a maximum of 250 HGV movements per day.
- Approval and implementation of a Construction Traffic Management Plan

The **Highway Authority** has no objections subject to conditions that secure a Construction Environmental and Traffic Management Plan, and submission of further information for the internal access roads once a design of the roundabout access has been complete which shall also include facilities for a bus to turn around within the site without reversing.

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

- There are concerns that the new proposal shows considerable additional tree losses when compared to the outline applications. The impact of additional tree loss around the pond/woodland area is of concern given that the proposals were for retention of this area at outline stage.
- It appears that levels changes are proposed within a treed area which is to be retained and protected. Assurance must be provided that there are to be no levels changes within Root Protection Area of retained trees
- Confirmation is sought whether retaining structures are sought as the gradients of slopes look steep.
- New cycle links/enhancements are not covered in the information provided.
- There are concerns about the loss of hedgerows and that a strategy for replacement be provided as part of the landscaping proposals at a later date.
- Full hard and soft landscaping proposals should be provided. These should link with principles for tree protection/Woodland strengthening, ecological enhancements and infrastructure/footpaths/cycle path proposals.
- Proposed hedgerow planting and general principles shown on the structural landscaping proposals are welcomed, however it is requested that additional strategic structural landscaping be provided to break up large expanses of paving and grassed spaces between buildings to break up and soften views of buildings, changes in levels, and retaining structures.
- It is suggested that adjustments are made to the woodland GI strategy drawing to include a verge so that new woodland planting does not abut the public right of way.

The **Environment Agency** has no objection and recommends a contaminated land condition.

The County Council as the **Mineral and Waste Planning Authority** has no objections.

The County Council **Public Rights of Way Officer** advises that Public Footpath No. 2 Newcastle runs through the proposed site, along the western boundary.

As the path will need diverting as part of these proposals, the developer will need to apply to the Borough Council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence.

It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development.

There is a discrepancy in the submission. The northern end of Public Footpath No. 2 Newcastle, marked in purple as 'existing public footpath' is incorrectly shown. The existing footpath passes through the blue site boundary. This will need amending.

Any works affecting the footpaths need to be discussed at the earliest possible opportunity with the County Council Rights of Way Team.

The County Council has not received any application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.

The **Coal Authority** has no objection subject to conditions to secure intrusive site investigation works and remedial works.

Staffordshire County Council as the **Lead Local Flood Authority** have a number of queries relating to the application.

The views of **Network Rail, Stoke City Council, Stoke City Council**, and the Council's **Economic Regeneration Section** have been sought. As they have not responded by the due date it is assumed that they do not have any comments,

Representations

None

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Drainage Design and Flood Risk Assessment
- Ecological Appraisal
- Arboricultural Assessment and Arboricultural Method Statement
- Landscape and Visual Appraisal
- Ground Conditions Assessment
- Report on Site Investigations
- Update of Mine Entry Investigations
- Transport Assessment Addendum
- Transport Technical Note
- Noise Report
- Air Quality Assessment
- Phase 2 Environmental Assessment Report
- Mineral Safeguarding Statement
- Written Scheme of Investigation for Archaeological Investigations
- Statement of Community involvement

All of these documents are available as associated documents to the application on the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00570/FUL>

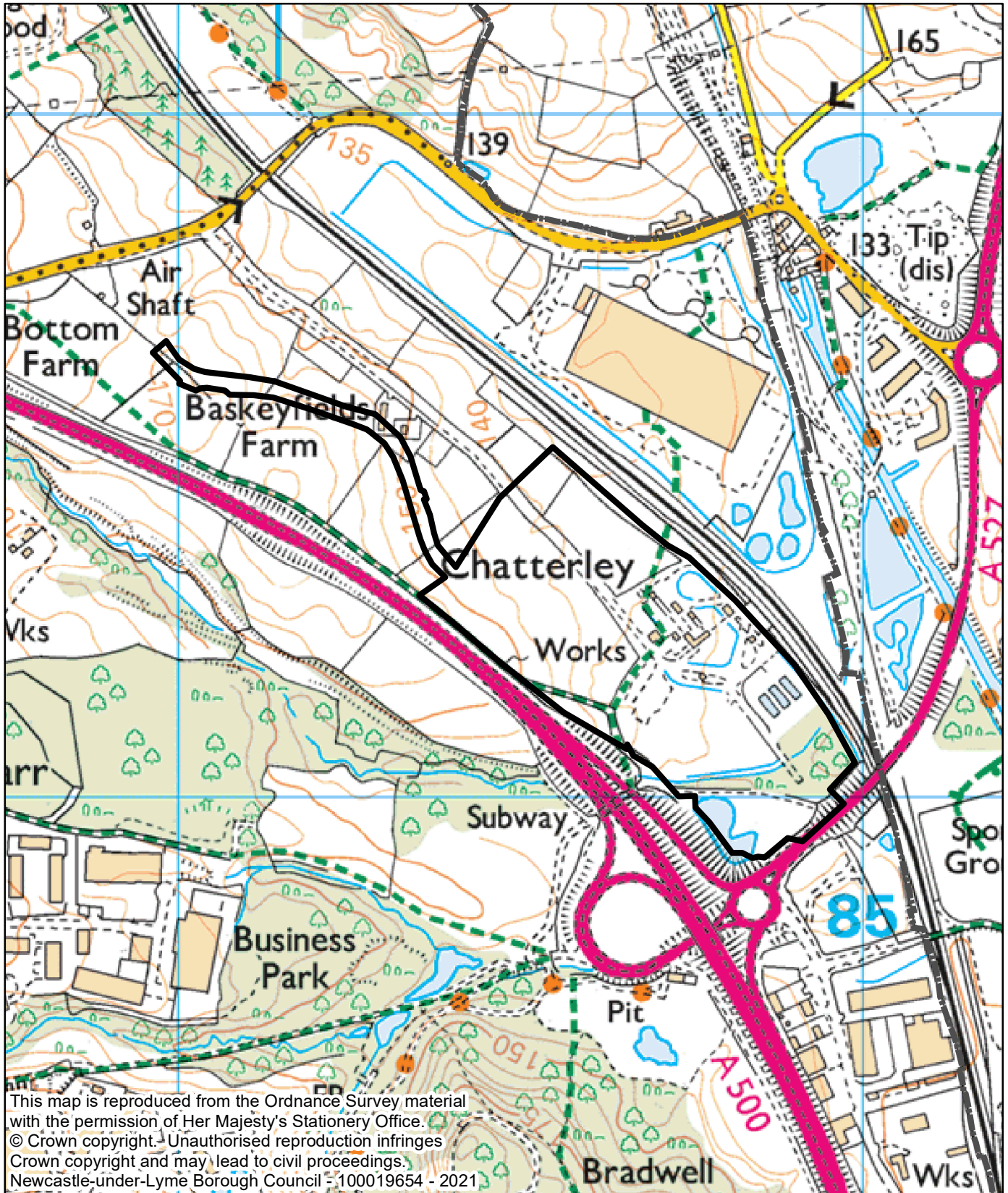
Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

2nd September 2021



This page is intentionally left blank

CHATTERLEY VALLEY DEVELOPMENT SITE, PEACOCK HAY ROAD
HARWORTH GROUP PLC

21/00595/FUL

The application seeks to remove or vary a number of conditions of 19/00846/OUT. Planning permission 19/00846/OUT removed or varied a number of conditions of 18/00736/OUT, a hybrid planning permission for:-

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

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

The 13 week period for the determination of this application expires on the 6th September 2021.

RECOMMENDATION

PERMIT the removal of condition B25 and variation of conditions A2, A8, B1, B6, B7, B9, B10, B11, B13, and B31 of 19/00846/OUT (but not B23) as follows:

1. Vary condition A2 to reflect the revised plans.

2. Vary condition A8 as follows:

Within 12 months of the commencement of the development referred to in item (A), a detailed structural landscaping scheme to the perimeter, including the site frontage to Peacock Hay Road; and to the slope between plots C and B, shall be submitted to and approved by the Local Planning Authority. The scheme shall accord with the principles of the Green Infrastructure Strategy (Drawing no. 3227-L-01 Rev C) and shall include details of the species of plants, hedgerow shrubs and trees along with their size, numbers and density of planting...

3. Vary condition B1 as follows:

The development referred to in item (B) hereby permitted was approved in consideration of the following;

- *Drawing no. 18004.GA.04 Revision B Proposed Highway Improvement Works at A500/A34 Grade Separated Junction*
- *Drawing no. 3227-L-01 Rev C– Green Infrastructure Strategy*

4. Vary condition B6 as follows:

Prior to the commencement of development of any plot referred to in item (B) the following shall have taken place:

- *The submission of a scheme of remedial works for the mine entries and the shallow workings relating to that plot for the approval of the Local Planning Authority; and*
- *The implementation of those remedial works.*

5. Vary condition B7 as follows:

Prior to the commencement of the installation of the Talke Roundabout improvement works as shown on 18004.GA.04 Revision B, a suitable assessment of the needs of walkers, cyclists and horse riders shall have been carried out and appropriate amendments to the off-site highway works at the A500 Talke roundabout, as identified in the assessment shall be agreed and implemented.

6. Vary condition B9 as follows:

A reserved matters application of the development referred to in item (B) shall include full design details, in accordance with DWG number – NWK 170107-BED-EX-00-DR-C-0258 Rev P04, for the new roundabout access, footways and improvement to the existing site access. This is to include a full scheme of proposals to secure the delivery of the speed reduction which should include gateway features, street lighting, conspicuous speed limit and warning signs, road markings and surfacing with an appropriate PSV – high friction surfacing. The approved details shall be implemented before the occupation of buildings within the site unless otherwise agreed by the Local Planning Authority.

7. Vary condition B10 as follows:

A reserved matters application of the development referred to in item (B) shall include detailed structural landscaping scheme for the verges of the main internal spine road and footpaths. The scheme shall accord with the principles of the Green Infrastructure Strategy (Drawing no. 3227-L-01 Rev C).

All planting, seeding or turfing comprised in the approved scheme shall be carried out prior to the occupation of any building referred to in item (b) unless a phased approved is agreed as part of a reserved matters application. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

8. Vary condition B11 as follows:

A reserved matters application shall include details of the main internal spine road which shall be designed to enable a bus to access the site and turn safely.

9. Vary condition B13 as follows:

Any reserved matters application regarding landscaping of the development referred to in item (B) shall include landscaping within the parking areas and other hardsurfaced areas.

All planting, seeding or turfing comprised in the approved scheme in as far as it relates to each plot shall be carried out prior to the occupation of any building on that plot. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

10. Vary condition B31 as follows:

No development shall be occupied that will generate more than 464 two way vehicular trips in the AM peak hour (0800-0900) and/or more than 411 two-way vehicular trips in the PM peak hour (17-1800), until the mitigation scheme for the A500/A34 junction as shown in principle on drawing no. 18004.GA.04 Revision B has been implemented in full and is open to traffic...

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

Reason for Recommendation

In the light of the policy support for the provision and enhancements to pedestrian and cycleway routes and in the absence of any basis upon which to conclude that they could not be achieved, the variation of condition B23 as proposed is not supported. It is appropriate and acceptable to amend all the other conditions as proposed and to remove condition B25.

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

The proposed variation and removal of conditions are largely acceptable. It is therefore considered that the proposal is a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

1.1 A hybrid planning permission has been granted involving:-

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

1.2 The applicant has been reviewing their plans for the site and engaging with potential occupiers. They advise that this has led to the preparation of a slightly different proposed site layout with reconfigured plots. The revised layout reduces the earthworks programme and therefore the construction of buildings could commence on site in a quicker timeframe.

1.3 The application, under section 73 of the Town and Country Planning Act 1990, seeks to amend the planning permission, reference 19/00864/OUT, to reflect this latest revision on the proposed layout and to enable a phased approach to delivery.

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

2.0 Variation of Condition A2

2.1 Condition A2 lists the approved plans and the revision sought is to list, as approved, plans which reflect amendments to the proposed layout and earthworks.

2.2 As indicated above earthworks have been approved on the northern part of the site only. The plans that are currently proposed reduces one of the approved platforms, plot C, from 7.1ha to 1.57ha. The amount of employment floorspace that could be provided on plot C therefore reduces.

2.3 The proposed amended development overall still has the capacity to accommodate over 100,000m² of gross internal floorspace and remains the largest employment site within the Borough at this time. This is an allocated site that has been undeveloped for a considerable period of time and any proposals that would make the development more deliverable are welcomed in principle particularly bearing in mind that the amount of structural landscaping remains comparable to the approved scheme.

3.0 Condition A8

3.1 The condition secures structural landscaping to the perimeter of the site and to the slopes between Plateau C1 and C2 and between plots C and B in accordance with the principles of the Green Infrastructure Strategy. Assuming the variation of condition A2 is approved as proposed, the wording of the condition needs to be amended to reflect that the plans submitted under this application only have one plateau C. In addition the reference to the drawing number of the Green Infrastructure Strategy requires amendment to the most up to date version. Such amendments are necessary and do not raise any issues in addition to those considered above.

4.0 Condition B1

4.1 The wording of this condition needs to be amended to refer to the latest version of the Green Infrastructure Strategy.

5.0 Variation of condition B6

5.1 The condition secures remediation works to ensure that the development can be made safe and stable taking into consideration the coal mining legacy issues on this site. The current wording of this condition infers the works would need to be undertaken across the whole site prior to commencement of construction on any plot. A minor change of the wording is sought to allow for a phased approach to the delivery of different plots.

5.2 Such a change is considered to be acceptable and appropriate particularly as it is noted that the Coal Authority have raised no objections.

6.0 Condition B7

6.1 The condition requires a suitable assessment of the needs of walkers, cyclists and horse riders and that appropriate amendments to the off-site highway works at the A500 Talke roundabout as required by the assessment are approved prior to the commencement of the development approved

in outline. The amendment sought is to specify that such an assessment is made prior to the installation of the Talke Roundabout improvement works shown on one of the approved plans.

6.2 It is noted that Highways England has not made any comment on this amendment and it is considered that there are no reasons to object to the proposed variation.

6.0 Condition B9 and B11

6.1 Condition B9 requires details for the new access to accompany the first reserved matters application and for the works to be implemented prior to commencing the construction of buildings. The submission indicates that this would delay the programme delivery. The submission sets out that it is not considered necessary that the access details need to pre-date the details of the buildings on the site so long as they are in place by the time the buildings are occupied. This would provide additional flexibility which would reduce the prospect for delay to the programme.

6.2 Condition B11 specifies that the first reserved matters application shall include details of the main internal spine road which shall be designed to enable a bus to access the site and turn safely.

6.3 The Highway Authority (HA) note that the internal link road will be built off the designed and finished levels of the roundabout and until the detailed design of the roundabout has been agreed there is the possibility that the levels will change. The HA suggest that the proposed rewording of the conditions may be premature therefore although it raises no objection in principle to the revised wording. It is therefore possible that further applications to vary these conditions may be necessary at a future date however that does not give reason to object to the proposed variation which is considered acceptable.

6.4 The HA's comments about the need to start the process of agreeing full technical details with them as soon as possible will be passed to them for their information.

7.0 Condition B10 and B13

7.1 Condition B10 requires a structural landscaping scheme to accompany the first reserved matters application and all works to be completed prior to any construction. Condition B13 requires landscaping details to accompany reserved matters application

7.2 The supporting information with this applications indicated that the proposed approach to deliver the site in phases may allow buildings to be constructed before the site wide earthworks are completed. It goes on to say that it is not practical to require site wide structural landscaping to be completed upfront as planting may be harmed during construction.

7.3 The requirement to provide the landscaping prior to the construction of any building was intended to give such landscaping an opportunity to mature before buildings appeared on site to assist in the assimilation of the development into the wider landscape. As a phased approach is now proposed this requirement could delay development commencing on site and could result in any planting undertaken having to be replaced due to it being damaged whilst construction takes place.

7.4 It is also necessary to amend the reference to the Green Infrastructure Strategy for the reasons set out above.

7.5 As such it is considered that it is acceptable and appropriate to amend the conditions as proposed.

8.0 Condition B23

8.1 The condition requires the undertaking of works to pedestrian and cycleway routes through the site and the surrounding area. The supporting information suggests that these works were not required by the HA in order to make the development acceptable and highlights that the proposal does include improved linkages to the surrounding area. The applicant indicates that the links to the A527 are acceptable and are proposed to be provided through the application.

8.2 A similar argument was put forward in support of a proposal to remove condition B23 as part of application 19/00846/OUT. Whilst other aspects of that application were approved the removal of condition B23 was not accepted.

8.3 The NPPF indicates at paragraph 110 that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, amongst other things:

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

8.4 At paragraph 112 it states that applications for development should:

- give priority first to pedestrian and cycle movements, both with the scheme and with neighbouring areas and second, as far as possible, to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other transport services, and appropriate facilities that encourage public transport use;
- address the needs of people with disabilities and reduced mobility in relation to all modes of transport,
- create places that are safe, secure and attractive.
- allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

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

8.6 Notwithstanding, as highlighted by the applicant, that the Highway Authority did not specify the provision of pedestrian and cycleway enhancement over and above those proposed there is strong policy support for this requirement.

8.7 There is already a pedestrian and cycle route through Bathpool Park which forms part of the Sustrans route NCN555 and provides access to the large residential population of Kidsgrove. To ensure that access to the site by non-car modes is fully exploited so that employees that live within the catchment area of the development site have a safe route to walk and/or cycle to and from work it is important that there is a safe and suitable link through Bathpool Park in addition to the other route enhancements that the applicant is willing to provide.

8.8 This could potentially be achieved by providing a route through woodland forming part of Bathpool Park to the south west of the railway line, joining the existing route at the point where it passes under the railway line. Alternatively it may be possible to provide the required enhancement along Peacock Hay Road from the site to the Bathpool Park carpark other than for the relatively short stretch where the road crosses over the railway line.

8.9 In the light of the policy support for the provision of such enhancements it is concluded as was the case in the previous application that the requirements of condition B23 are justified and as such the suggested amendments to the wording of this condition are not accepted.

9.0 Condition B25

9.1 The condition prevents the buildings to be erected on plots C and D to be used for storage or distribution. The reason for this is to ensure that the uses are demonstrably consistent with the role and objectives of this Premium Employment Site as referred to in policies SP1 and ASP5 of the Core Spatial Strategy and policy E2 of the local Plan.

9.2 The reference within current development plan policies to the northern part of the site being a Premium Employment Site stems from the former Staffordshire and Stoke-on-Trent Structure Plan 1996-2011 which was abolished by the Planning and Compulsory Purchase Act 2004. There is no longer any clear justification for this restriction given that the nature of B8 operations has changed over recent years as they provide better quality jobs than was previously believed. It is considered that the removal of this restriction would provide greater flexibility and would assist in bringing the development of the site forward. It is therefore considered that the removal of the condition as proposed is acceptable.

10.0 Condition B31

10.1 The condition sets the threshold for the implementation of the mitigation scheme for the A500/A32 junction (Talke Roundabout). The supporting information with the application states that the figures quoted in the condition are incorrect as they are not consistent with the agreement reached with Highways England.

10.2 Highways England accept that there is an error in the figures set out in the condition as they account for Phase 1 or Phase 1A/ Phase 1B when they should account for the combined Phase 1, 1A and 1B cumulative figures. Highways England therefore consider that the proposed amendment to condition B31, which involves an increase in the threshold before the mitigation works are required, are acceptable.

11.0 Reducing Inequalities

11.1 The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

11.2 The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

11.3 People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

11.4 When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

11.5 With regard to this proposal and the matters that can be addressed, it is considered that it will not have a differential impact on those with protected characteristics.

APPENDIX

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

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

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

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

Policy E2: Chatterley Valley

Other Material Considerations include:

[National Planning Policy Framework \(2021\)](#)

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

Relevant Planning History

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

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

An application, 19/00846/OUT, was permitted. The application was to remove condition B23, relating to pedestrian and cycleway enhancements, of planning permission 18/00736/OUT and variation of condition A1 relating to timescales for completion of earthworks; variation of conditions A8, B1 and B10 with regards to reference to Green Infrastructure Strategy; variation of condition B3 regarding requirements for the reserved matters application/s; and variation of reason for condition B25 relating to permitted use classes on the plots.

Another application, 21/00570/FUL, for full planning permission for the formation of development platforms, provision of access road and accompanying infrastructure and ecological enhancements has also been submitted. The application is pending consideration.

Views of Consultees

The **Highway Authority (HA)** comment as follows:

- Condition B9 relates to the new proposed roundabout junction access into the site. Whilst there are no objections in principle to this revised wording they note that the internal link road will be built off the designed and finished levels for the roundabout. These levels could change through this process so the detailed design may be premature for the internal road.
- Condition B11 relates to the internal road, again there are no objections to this wording but would again point out that any design would be reliant upon the finished levels of the new roundabout junction. The applicant is urged to consider starting that process of agreeing full technical detail with the highway authority as the roundabout is a complicated one with a variety of levels and the agreeing of details could be a lengthy process. The HA also require details on the ability for buses to be able to manoeuvre through the new road.
- Condition B23 relates to pedestrian and cycle link enhancements. There are no objection in principle to the wording proposed in the first part however the final part on implementation is not agreed, it should be prior to occupation to encourage sustainable access is available from

occupation to the units or travel patterns could be established that rely on the car. It is questioned whether this also effect the travel plan.

Highways England advise that the increase and amendment to condition 31 is acceptable based on the detailed work undertaken post the agreement to the original wording.

The **Coal Authority** have no objections to the revised wording of the condition as proposed.

The County Council **Public Rights of Way Officer** advises that Public Footpath No. 2 Newcastle runs through the proposed site, along the western boundary.

As the path will need diverting as part of these proposals, the developer will need to apply to the Borough Council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence.

It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development.

There is a discrepancy in the submission. The northern end of Public Footpath No. 2 Newcastle, marked in purple as 'existing public footpath' is incorrectly shown. The existing footpath passes through the blue site boundary. This will need amending.

Any works affecting the footpaths need to be discussed at the earliest possible opportunity with the County Council Rights of Way Team.

The County Council has not received any application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.

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

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

Representations

None received.

Applicant's/Agent's submission

The application is supported by a Transport Assessment Addendum and a Design and Access Statement. These documents, the form and plans can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00595/OUT>

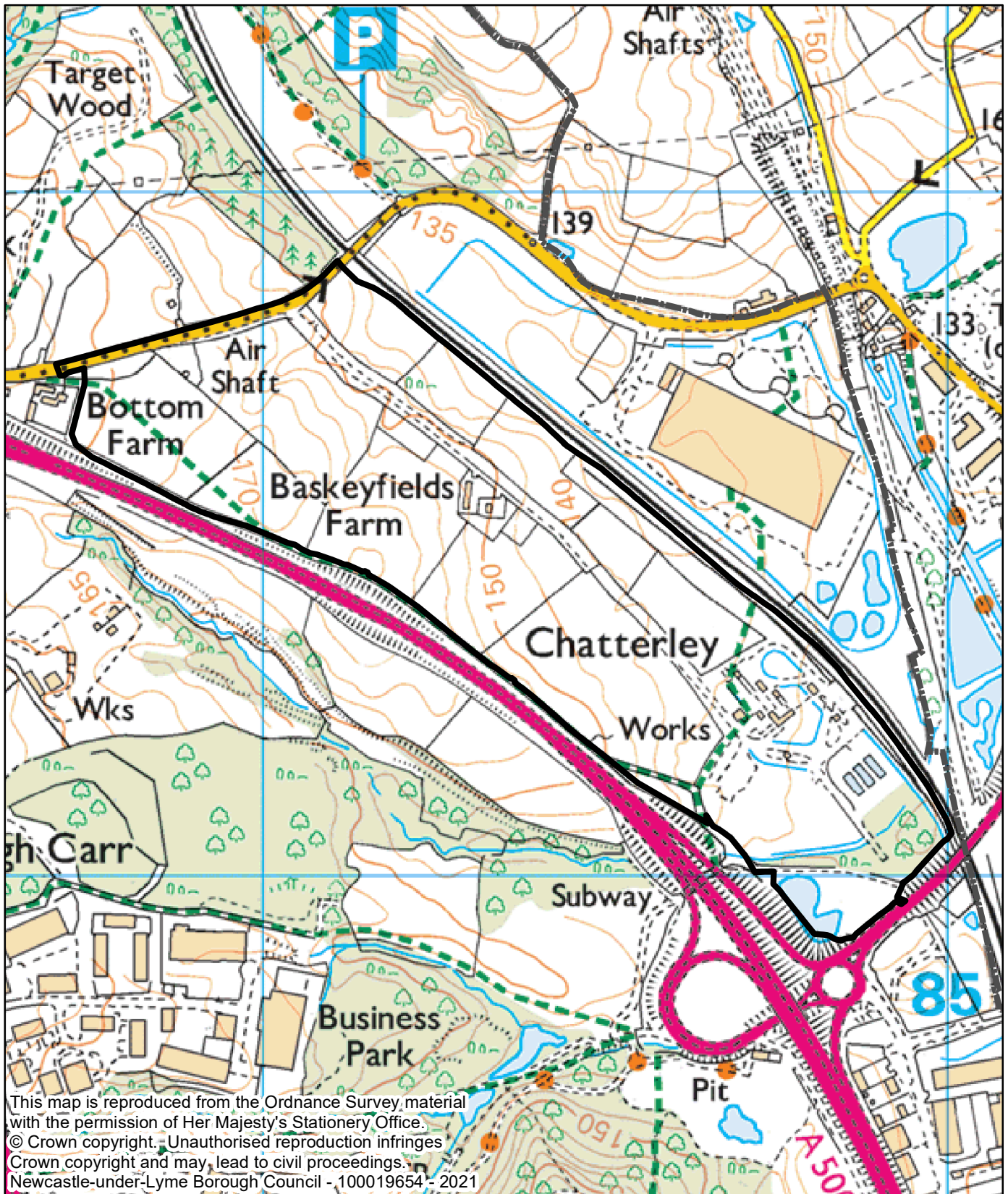
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

1st September 2021

This page is intentionally left blank



This page is intentionally left blank

**LAND TO THE NORTH EAST OF ECCLESHALL ROAD, SOUTH EAST OF PINWOOD ROAD
AND NORTH WEST OF LOWER ROAD, HOOK GATE
VERVE SHREWSBURY LTD** **21/00834/FUL & 21/00835/FUL**

These applications seek to vary conditions 7 (Ref. 21/00834/FUL) and 20 (Ref. 21/00835/FUL) of planning permission 21/00327/FUL. Planning permission 21/00327/FUL varied a number of conditions of 17/01001/FUL which granted consent for the erection of 22 houses and bungalows with associated access roads and drainage. The applications seek to vary the 'prior to commencement of development' aspect of each condition.

The application site lies within the open countryside and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. It comprises three fields and is approximately 1.1 hectares in total.

The 13 week period for the determination of these applications expires on 22nd November 2021.

RECOMMENDATIONS

21/00834/FUL

The Head of Planning be given the delegated authority to determine the application after 17th September subject to any comments that are received from Loggerheads Parish Council, the Highway Authority and interested parties not raising any matters that have not been addressed within the report or that cannot be overcome through the imposition of conditions, PERMIT the variation of condition 7 of 21/00327/FUL so that it reads as follows:

The development shall not be occupied until visibility splays have been provided at the site accesses in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.

And subject to any other conditions attached to planning permission 21/00327/FUL that remain relevant at this time.

21/00835/FUL

The Head of Planning be given the delegated authority to determine the application after 17th September subject to any comments that are received from Loggerheads Parish Council, the Highway Authority and interested parties not raising any matters that have not been addressed within the report or that cannot be overcome through the imposition of conditions, PERMIT the variation of condition 20 of 21/00327/FUL so that it reads as follows:

No above ground works shall commence until a detailed surface water drainage design has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must be in accordance with the overall strategy and key design parameters set out in the Flood Risk Assessment (ELLUC Project Number LE022 Revision F2 dated 13th June 2018). The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

And subject to any other conditions attached to planning permission 21/00327/FUL that remain relevant at this time.

Reason for Recommendations

For both applications, there is no justification for requiring the submission of details prior to the commencement of development. Subject to the imposition of any conditions of 21/00327/FUL that remain relevant at this time, the proposals are considered to be acceptable.

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

The proposals are considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework and no amendments were considered necessary.

Key Issues

These applications seek to vary conditions 7 (Ref. 21/00834/FUL) and 20 (Ref. 21/00835/FUL) of planning permission 21/00327/FUL. Planning permission 21/00327/FUL varied a number of conditions of 17/01001/FUL which granted consent for the erection of 22 houses and bungalows with associated access roads and drainage. The applications seek to vary the 'prior to commencement of development' aspect of each condition.

In considering an application to vary or remove a condition, the Authority has to consider only the question of the conditions that are the subject of the application, it is not a complete reconsideration of the application. If the Authority considers that planning permission may be granted subject to different conditions it can do so. If the Authority considers that the conditions should not be varied or removed it should refuse the application.

The Planning Practice Guidance states that care should be taken when considering using pre-commencement conditions that prevent any development authorised by the planning permission from beginning until the condition has been complied with. This includes conditions stating that 'no development shall take place until...' or 'prior to any works starting on site...' Such pre-commencement conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission.

Application 21/00834/FUL

Condition 7 as worded in the decision notice states as follows:

The development shall not commence until details of the visibility splays at the site accesses have been first submitted to and approved in writing by the Local Planning Authority. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level and be provided in accordance with the approved plan prior to first occupation.

The reason given for the condition within the decision notice was:

In the interests of highway safety and to comply with the aims and objectives of the National Planning Policy Framework (2018).

The applicant has requested that the wording "The development shall not commence..." is revised to "The development shall not be occupied..."

Whilst the comments of the Highway Authority have not yet been received, it is not considered necessary for details of the visibility splays to be provided prior to the commencement of development. Provided that the details are agreed and the visibility splays are provided in accordance with the approved details prior to first occupation of the scheme, then it is considered that there would be no adverse impact on highway safety.

Therefore, it is considered appropriate to vary the wording of Condition 7 as follows:

The development shall not be occupied until visibility splays have been provided at the site accesses in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.

Application 21/00835/FUL

Condition 20 states as follows:

No development shall take place until a detailed surface water drainage design has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must be in accordance with the overall strategy and key design parameters set out in the Flood Risk Assessment (ELLUC Project Number LE022 Revision F2 dated 13th June 2018). The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The reason given for the condition within the decision notice was:

To prevent the increased risk of flooding and to comply with the aims and objectives of the National Planning Policy Framework (2018).

The applicant has requested that the wording 'No development shall take place...' is revised to "No above ground works shall commence..."

Whilst the comments of Staffs County Council Flood Authority have not yet been received, it is not considered necessary for details of the surface water drainage design to be provided prior to the commencement of development. Provided that the details are agreed and the scheme is implemented in accordance with the approved details prior to completion of the scheme, then it is considered that there would be no increased risk of flooding.

Therefore, it is considered appropriate to vary the wording of Condition 20 as follows:

No above ground works shall commence until a detailed surface water drainage design has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must be in accordance with the overall strategy and key design parameters set out in the Flood Risk Assessment (ELLUC Project Number LE022 Revision F2 dated 13th June 2018). The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Is a planning obligation required?

In law the consequence of the granting of an application to vary conditions of a planning permission would be the creation of an entirely new planning permission rather than an amendment of the existing one (17/01001/FUL in this case). That previous permission was granted on the 26th October 2018 following the completion of a Section 106 agreement which secured contributions towards public open space and education and a review mechanism of the scheme's ability to make more policy compliant contributions if the development is not substantially commenced within 12 months. In some cases, the applicant is required to enter into a Deed of Variation to the original Section 106 agreement to ensure that the Council's interests are protected. In this instance however, there is a clause within the Section 106 which states that in the event that the Council shall at any time grant a planning permission for a variation of a condition attached to the original planning permission, then references in the S106 to the planning permission shall be deemed to include any such subsequent permissions for variations. On this basis, no planning obligation is now required.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal and the matters that can be addressed, it is considered that it will not have a differential impact on those with protected characteristics.

APPENDIX

Policies and proposals in the approved development plan relevant to these decisions:-

[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
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 N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N4: Development and Nature Conservation – Use of Local Species
Policy N17: Landscape Character – General Considerations
Policy N18: Areas of Active Landscape Conservation
Policy T16: Development – General Parking Requirements
Policy C4: Open Space in New Housing Areas
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

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

Policy LNPP1: Urban Design and Environment
Policy LNPT1: Sustainable Transport

Other Material Considerations include:

National Planning Policy

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

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

Relevant Planning History

| | | |
|--------------|---|-----------------------|
| 21/00393/FUL | Erection of 22 dwellings and associated infrastructure | Pending consideration |
| 21/00327/FUL | Application for variation of condition 5, 6, 9, 17, 18 and 19 of planning permission 17/01001/FUL to remove prior to commencement of development aspect of each condition | Approved |
| 17/01001/FUL | Erection of 22 houses and bungalows with associated access roads and drainage | Approved |
| 15/00448/OUT | Erection of up to 16 dwellings | Approved |

Views of Consultees

21/00834/FUL

The comments of the **Highway Authority** and **Loggerheads Parish Council** are awaited.

21/00835/FUL

The comments of Staffordshire County Council as the **Lead Local Flood Authority** and **Loggerheads Parish Council** are awaited.

Representations

None received to date.

Applicant's/Agent's submission

The application plans are available for inspection via the following links:

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/0834/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/0835/FUL>

Background papers

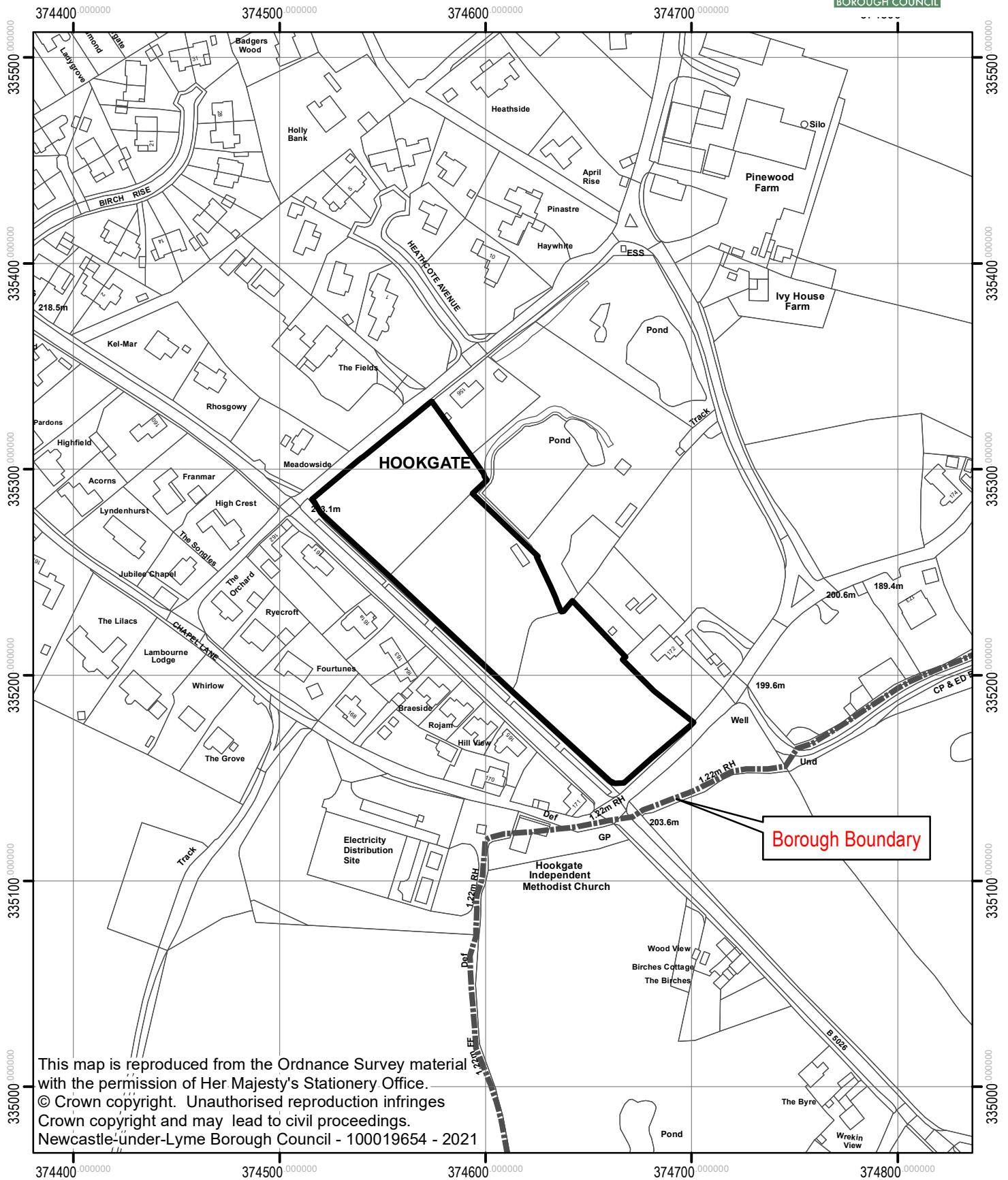
Planning files referred to

Planning Documents referred to

Date report prepared

1st September 2021

Land To The North East Of Eccleshall Road
South East Of Pinewood Road and North West Of Lower Road



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office.
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings.
 Newcastle-under-Lyme Borough Council - 100019654 - 2021

This page is intentionally left blank

PLUM TREE PARK FARM, CHURCH LANE, BETLEY
MR H KENNERLEY

21/00499/FUL

This application seeks full planning permission for a farm manager's dwelling.

The site lies within the Open Countryside, which is designated as being within the Green Belt and an Area of Landscape Enhancement, as indicated on the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expired on 14th July but an extension of time has been agreed to 17th September 2021.

RECOMMENDATION

PERMIT subject to conditions relating to the following matters:

- 1. Time limit condition**
- 2. Approved Plans**
- 3. Provision of parking and turning areas**
- 4. Electric vehicle charging provision**
- 5. Landscaping**
- 6. Materials**
- 7. Occupation of dwelling limited to a person working in agriculture or forestry**

Reason for Recommendation

Although the proposal comprises inappropriate development within the Green Belt, the applicant has made a compelling case to demonstrate that there is an essential need for an additional rural worker to live permanently on the site and therefore it is considered that the very special circumstances exist to outweigh the harm by definition.

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

Key Issues

The application is for full planning permission for a farm manager's dwelling. The site lies within the Open Countryside, which is designated as being within the Green Belt and an Area of Landscape Enhancement, as indicated on the Local Development Framework Proposals Map.

It is not considered that the application raises any issues of impact on residential amenity or highway safety and therefore the main issues for consideration in the determination of this application are:

- Is the principle of an agricultural worker's dwelling on this site acceptable?
- Does the development represent appropriate development within the Green Belt?
- Would the proposed development have any adverse impact on the character and appearance of the area?
- If not appropriate development in the Green Belt, do the required very special circumstances exist that would outweigh the harm caused by inappropriate development or any other harm?

Is the principle of an agricultural worker's dwelling on this site acceptable?

The applicant, A.W. & D Kennerley & Son, is a farm partnership operated by Mrs D Kennerley (retired), Mr & Mrs Kennerley (senior) and Howard Kennerley. The family farms approximately 260ha of land. The livestock includes 185 dairy cattle on an all-year-round calving system along with 650 ewes and approximately 1250 lambs per year.

The application states that as it stands the enterprise requires at least six people to meet the essential welfare needs of the livestock. There are currently just four, David and Howard Kennerley, a full-time herdsman and a general farm worker. At present, there are two dwellings at Plum Tree Park Farm; the main farmhouse occupied by David & Shirley and a small agricultural workers bungalow (Fairfields) occupied by a full-time herdsman.

Mr Kennerley senior is retiring and Howard will take over full-time responsibility for the day to day running of the enterprise. However, he currently lives at Loggerheads, approximately 25-30 minute drive from the farm. With David retired, there would be just one, less experienced full-time worker living at the farm, and a dwelling is now required for Howard to enable him to live in close proximity and respond to the essential needs of the enterprise.

Paragraph 80 of the NPPF states that Local Planning Authorities should avoid new isolated homes in the countryside unless one or more of a number of circumstances apply. These include where there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside.

Paragraph 84 of the NPPF recognises that planning decisions should enable, amongst other things, the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.

PPS7: Sustainable Development in the Rural Area (2004) was replaced by the publication of the NPPF in 2012. However, the annex to PPS7 contained advice relating to occupational workers' dwellings and it is considered that the criteria contained within the annex remain an appropriate way to assess this issue.

Annex A of PPS7 states that new permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- i) there is a clearly established *existing* functional need;
- ii) the need relates to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- iv) the functional need could not be fulfilled by another existing dwelling on the unit, or by any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

Firstly, turning to the functional need for a dwelling on the site, PPS7 states that a *functional test* is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement may arise, for example, if workers are needed to be on hand day and night to provide essential care at short notice or to deal quickly with emergencies. It goes on to say that the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling, although it will not by itself be sufficient to justify one.

The application sets out why it is considered that there is an essential need for a stock person to be readily available at most times near the livestock to conduct frequent monitoring and attend to the needs of the livestock. This is the only method to satisfactorily ensure the welfare of the cattle, sheep and lambs in their care and, therefore, the efficient operation of the business.

It is accepted that the particular nature and demands of this farming enterprise make it essential for a worker to be resident on the site. PPS7 states that if a functional requirement is established, it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant.

An Agricultural Business Appraisal sets out the standard labour requirement for the whole agricultural business and calculates that 6.56 full time farm workers are necessary to meet the labour requirement on the farm. This is based on a full-time equivalent of 275 days per person. No stock person can provide effective 24-hour cover on a continuous basis as they will require time to sleep, time off, annual leave and sick leave. Therefore, two stock persons on active duty are required every 24 hours. Mr Kennerley senior is retiring from the business, leaving one key worker. Consequently, a second stock person is required to ensure that all 24-hour periods throughout the year have the necessary cover to ensure the essential needs of the livestock are met.

On the basis of the information submitted, it is accepted that it is necessary for an additional agricultural worker's dwelling at the site.

It also needs to be established that there is any other existing dwelling on the unit, or other existing accommodation in the area which is suitable and available for occupation by the workers concerned. All of the existing buildings at the site are fully in use as part of the working farm and no properties are available within half a mile of the enterprise. The applicant's case is considered reasonable and it is accepted that there are no dwellings available sufficiently close to the site to fulfil the identified functional need.

PPS7 states that the unit and the agricultural activity concerned should have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so. It is clear from the information provided that the unit and agricultural activity have been established for at least 3 years, are financially sound and appear to have a clear prospect of remaining so.

In conclusion, it is considered that there is an essential need for an additional worker to live within sight and sound of the farm and that there are no existing properties that are suitable or available. On this basis, the proposal complies with Paragraph 80 of the NPPF.

Does the development represent appropriate development within the Green Belt?

The National Planning Policy Framework states that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt unless for a number of exceptions. These exceptions include buildings for agriculture or forestry.

However, in an appeal decision relating to a farm manager's dwelling at land adjacent to The Old Hall Farm, Betley (Ref. 19/00491/FUL), the Inspector stated that dwellings for rural workers in agriculture or forestry are primarily intended for residential use and therefore they are not buildings for agriculture or forestry (even though they are intended to support such a use). It was stated that unless a proposed rural worker's dwelling specifically falls within one of the exceptions listed in paragraphs 145 and 146 (paragraphs 149 and 150 in the recently revised NPPF), it would be inappropriate development. In this instance, the proposed development does not comply with any of the exceptions listed and therefore it must be concluded that it is inappropriate development in the Green Belt. Whether very special circumstances exist to outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, will be assessed below.

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

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

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) has been adopted by the Borough Council and it is considered that it is consistent with the NPPF. Section 10.5

of the SPD states that new development in the rural area should respond to the typical forms of buildings in the village or locality.

The site lies within an Area of Landscape Enhancement. Policy N20 of the Local Plan states that within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

Although in a rural location, the proposed dwelling would not be in an isolated position in the landscape and any views of the property from Church Lane would be seen in the context of the existing dwellings on the road frontage. Subject to an appropriate landscaping scheme to help to integrate the development within the surrounding countryside, it is not considered that the siting of the proposed dwelling would have any significant adverse impact on the character and appearance of the area.

The new dwelling would be a traditionally styled, 2-storey, 4-bed dwelling with lounge, kitchen/dining/family room, office and shower/changing room at ground floor level. It would comprise traditional finishes with facing brick, slate roof and stone lintels and cills. A pitched roof double detached garage is also proposed which would be of a fairly typical size and design. The scale and design of the dwelling is considered acceptable and in accordance with Policy CSP1 of the Core Spatial Strategy and with the aims and objectives of the National Planning Policy Framework.

Do the required very special circumstances exist that would outweigh the harm caused by inappropriate development or any other harm?

The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Such circumstances will only exist where other considerations outweigh the substantial weight to be given to Green Belt harm.

The applicant has made a compelling case to demonstrate that there is an essential need for an additional rural worker to live permanently on the site. Having carefully considered the benefits of the proposal and all other considerations, it is considered that they would clearly outweigh the substantial weight given to Green Belt harm. As such, the very special circumstances needed to justify the proposed permanent dwelling in the Green Belt do exist in this case.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The public sector equality duty requires public authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics.

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

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

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N17: Landscape Character – General Consideration
Policy N20: Area of Landscape Enhancement

Other Material Considerations include:

National Planning Policy

[National Planning Policy Framework \(NPPF\) \(2021\)](#)

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

Supplementary Planning Documents/Guidance

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

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

Relevant Planning History

None relevant – the site is located on an established agricultural enterprise.

Views of Consultees

The **Highway Authority** has no objections subject to a condition requiring the provision and retention of the access, parking and turning areas.

The **Landscape Development Section** has no objections subject to a condition requiring submission of a landscaping scheme to include native hedge and tree planting as proposed.

The **Environmental Health Division** has no objections.

Betley, Balterley & Wrinehill Parish Council has no objection to the application as there is a clearly demonstrated agricultural need for the dwelling. Conditions are recommended restricting occupancy to a person engaged (or last employed) full-time in agriculture and preventing the property being sold off from the holding.

Representations

Four letters of **support** have been received, three from contacts who have worked for or advised the applicant from a business/farming perspective and one from a neighbour. The representations state that it is essential for the applicant to live on site.

Applicant's/Agent's submission

The application plans are available for inspection via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00499/FUL>

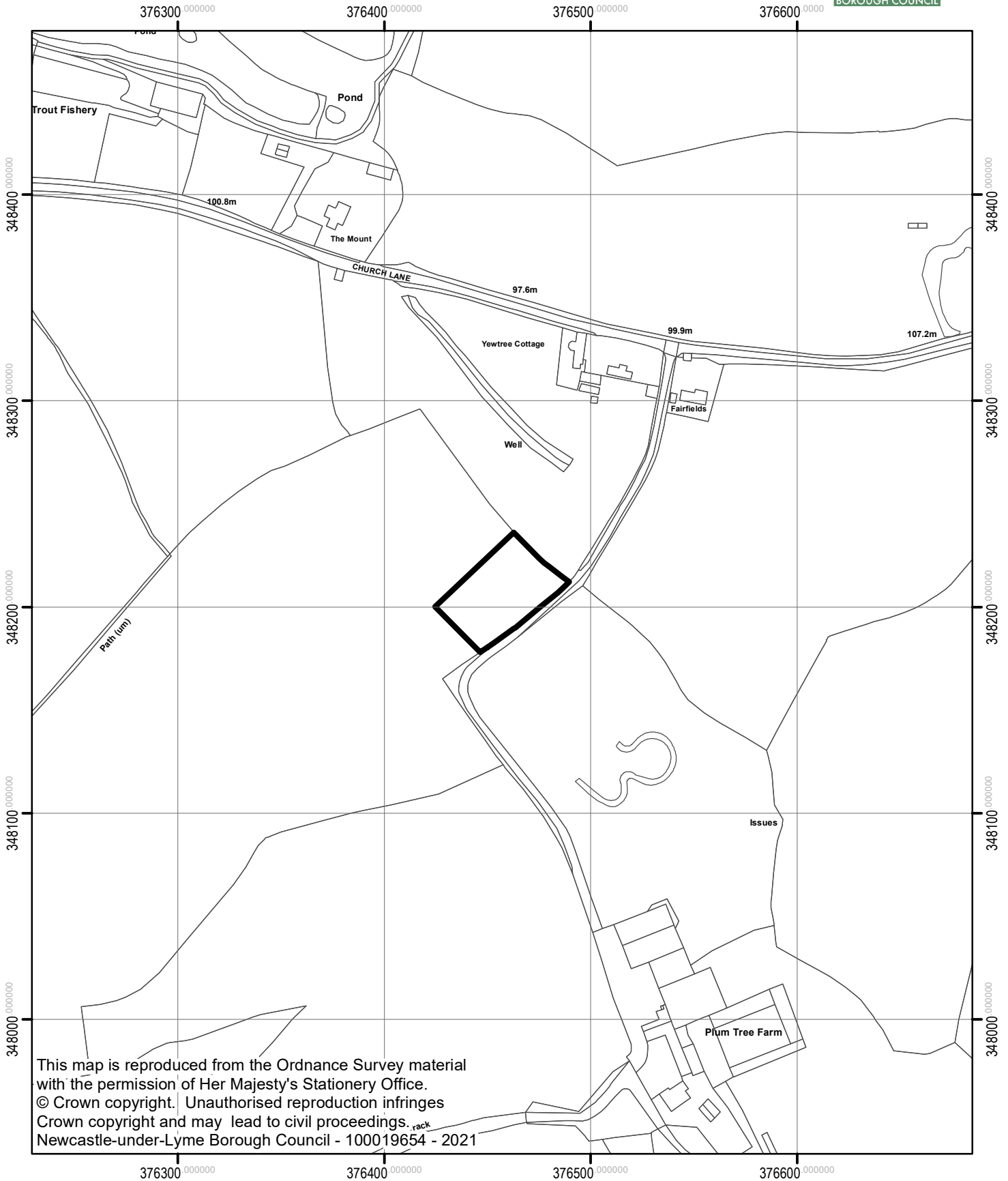
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

1st September 2021

This page is intentionally left blank



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings. Newcastle-under-Lyme Borough Council - 100019654 - 2021

This page is intentionally left blank

THE CHALET, BUNGALOW FARM, RYE HILLS
MR CARL BEESTON

21/00702/FUL

The application is for full planning permission for a replacement dwelling at Bungalow Farm, Rye Hills.

The site lies within the open countryside, which is designated as being within the Green Belt and falls within an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The 8 week determination of this application expired on 3rd September 2021 but the applicant has agreed an extension of time to the 16th of September 2021.

RECOMMENDATION

Permit, subject to conditions relating to the following: -

- 1. Time limit**
- 2. Approved plans**
- 3. Materials**
- 4. Electric vehicle charging provision**
- 5. Construction hours**
- 6. Drainage**

Reason for Recommendation

Whilst the development represents inappropriate development within the Green Belt, it is accepted that there are very special circumstances which would outweigh the associated harm to the openness of the Green Belt from this development. The design and layout of the proposal is considered acceptable and to be in accordance with the aims and objectives of the National Planning Policy Framework and the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD. The proposed development fully complies with planning policy guidance in terms of the impact on highway safety and residential amenity levels of neighbouring occupiers.

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

Additional information has been requested during the consideration of the application and the applicant has submitted details to satisfy any concerns. The development is now considered to be a sustainable form of development in accordance with the National Planning Policy Framework.

Key Issues

The application is for full planning permission for a replacement dwelling at Bungalow Farm, Rye Hills. The site lies within the open countryside, which is designated as being within the Green Belt and falls within an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The application site is comprised of a spacious plot, which is set away from neighbouring residential properties and complies with supplementary planning policy guidance that addresses residential amenity. The access and parking arrangements are also considered acceptable following a no objections response from the Highways Authority.

Given the above there are no concerns regarding highways implications or residential amenity, and the key matters in the consideration of the application are;

- Is the development an appropriate form of development within the Green Belt?
- The design and the impact on the character and appearance of the area
- Do the required very special circumstances exist (to justify inappropriate development)?

Is the development an appropriate form of development within the Green Belt?

Paragraph 138 of the NPPF indicates that the Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment.

Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 149 of the NPPF states that other than in the case of a number of specified exceptions the construction of new buildings should be regarded as inappropriate in the Green Belt. One of these exceptions is (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

Concerns were raised with the plans originally submitted within the application, as the replacement dwelling would have resulted in a 94% size increase over and above the size of the original dwelling. Following advice from your officers, amended plans were received during the consideration of the application and the replacement dwelling now has an overall volume of 357m³, this amounts to an approximate increase of 50% increase in size of the existing dwelling to be replaced. On this basis it must be concluded that the proposed replacement dwelling is materially larger than the existing dwelling and this constitutes inappropriate development in the Green Belt and should only be permitted if very special circumstances exist.

The design and the impact on the character and appearance of the area

Paragraph 126 of the National Planning Policy Framework (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.

Paragraph 130 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.

Policy CSP1 of the Council's Core Spatial Strategy 2006-2026 requires that the design of the development is respectful to the character of the area.

The application site consists of a small static caravan that has been extended to and altered over a number a years, it has very little architectural quality and currently detracts from the quality of the area.

The proposed replacement dwelling would have a traditional gable roof arrangement and would be one and half storey in height. The proposed dwelling would have an eaves height of 2.75m, a ridge height of 6.2m and would be of a typical brick construction with stone window cills and heads and a tile roof.

The only other nearby dwelling close to the application site is a small detached bungalow, and there is therefore no set design style in the immediate area. As such it is considered that the overall external appearance, with respect to the proposed materials and design character, is appropriate for the area.

It is recognised that the replacement dwelling would result in a clear visual change to the application site, however given the local topography, the visual change would not be perceivable within the wider landscape. In addition to the above, the application site also benefits from being set within a generous plot size and can therefore accommodate the proposed development without appearing as an overdevelopment of the site itself.

To conclude, it is considered that the overall scale, appearance and siting of the proposed dwelling would have an acceptable visual impact when assessed against adopted national and local development plan design policies.

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

The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The applicant has provided supporting information with the application which outlines that the proposal would result in a more aesthetically pleasing, sustainably designed dwelling which will bring the current property back into a viable use. Whilst your officer agrees with this statement, these matters alone are not considered to amount to very special circumstances.

The existing property has full permitted development rights and even if planning permission was required the Council could approve extensions that would not result in a disproportionate addition over and above the size of the original dwelling. This is a fall back position that could be exercised by the applicant and needs to be considered in the determination of this application.

In this instance the applicant has calculated that the original dwelling (excluding any extensions post 1948) has a volume of 244m³. The proposed dwelling would have a volume of 357m³ which would result in a volume increase of approximately 46%.

Whilst a 50% increase of the original dwelling is not written within policy it has been accepted that this is unlikely to be considered to be a disproportionate addition to the original.

A dwelling with a volume of 357m³ is not considered excessive within a plot of this size and the proposal is of a much higher design standard than the one it replaces.

It is considered that the above represents a likely fall back position and the harm that the size of the replacement dwelling would have on the openness of the Green Belt would be no greater but the design would be considerably better and these would amount to the very special circumstances required to justify the proposed development in this instance, this being in accordance with the requirements of the NPPF.

Consideration must be given to whether permitted development rights (PDR) should be removed by condition, to make the development acceptable.

Paragraph 56 states that "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects".

Appeal inspectors have concluded that there are rarely exceptional circumstances for removing PDR just because a site is within the Green Belt. Therefore, your officer do not consider that a condition removing PDR is justified in this instance.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The public sector equality duty requires public authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics.

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 |

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

| | |
|-------------|---|
| Policy S3: | Development in the Green Belt |
| Policy H1: | Residential Development: Sustainable Location and Protection of the Countryside |
| Policy T16: | Development – General Parking Requirements |
| Policy N3: | Development and Nature Conservation – Protection and Enhancement Measures |
| Policy N17: | Landscape Character – General Considerations |
| Policy N21: | Areas of Landscape Restoration |

Other Material Considerations include:

National Planning Policy

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

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

Supplementary Planning Guidance/Documents

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

[Space around Dwellings Supplementary Planning Document](#) (2004)

Relevant Planning History

None.

Views of Consultees

The **Environmental Health Division** have no objections subject to conditions relating to construction hours and the provision of an electrical charging point.

The **Highway Authority** have no objections to the proposal.

United Utilities recommend the applicant implements the scheme in accordance with the surface water drainage hierarchy.

Audley Parish Council advises that they support the proposal.

Cadent (National Grid) advises that there is a Cadent distribution pipe close to the proposal which should not be built over. Therefore, a series of advisory notes to the applicant are recommended.

Representations

One letter has been received from the occupant of 'Bungalow Farm' confirming that they have no objections to the application.

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Supporting statement
- Design and Access statement

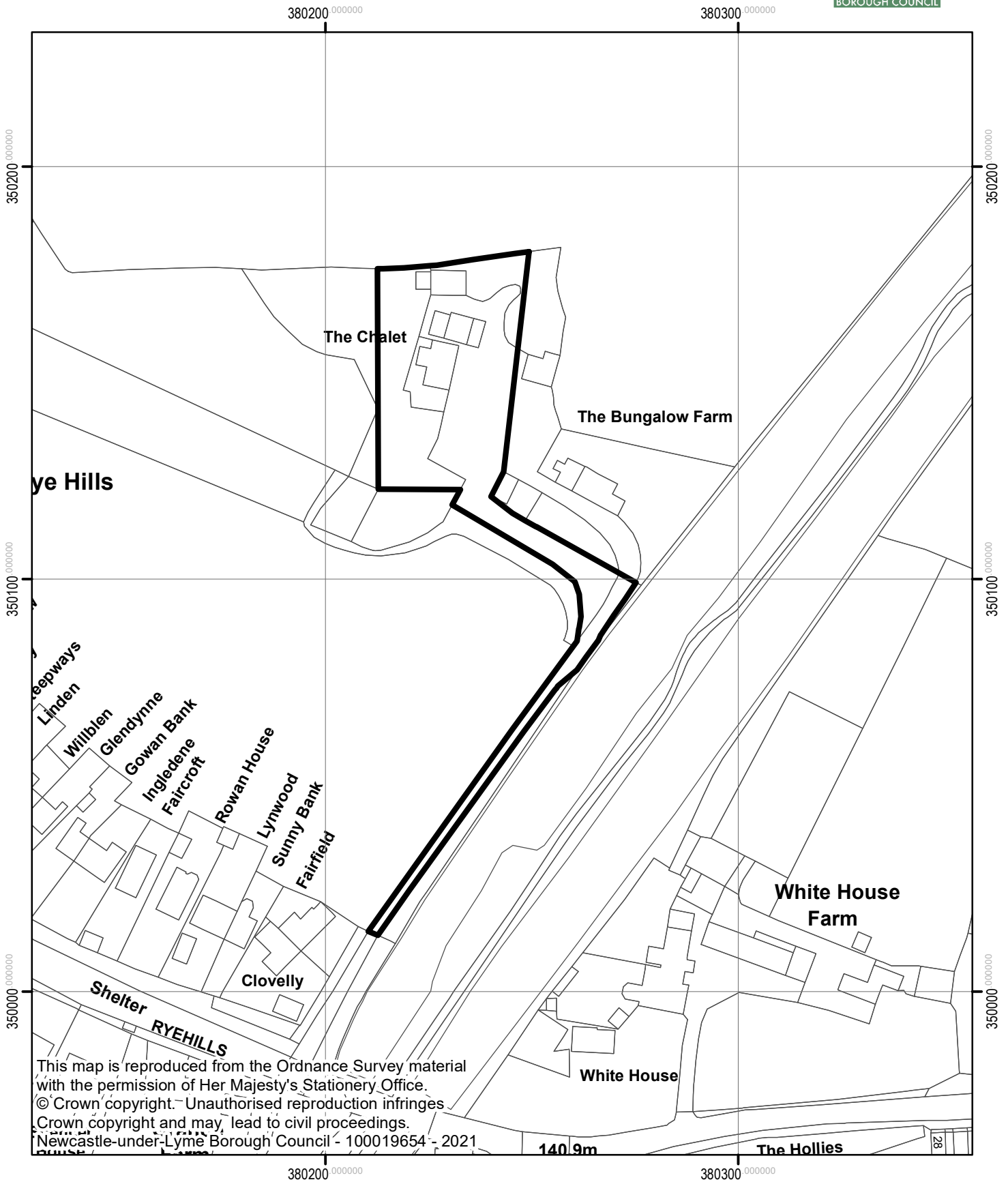
All of the application documents can be viewed on the Council's website using the following link:
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00702/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

1st September 2021



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings. Newcastle-under-Lyme Borough Council - 100019654 - 2021

This page is intentionally left blank

LAND ADJACENT WATERHAYS FARM TELEPHONE EXCHANGE CEDAR, ROAD
CK HUTCHISON NETWORKS (UK) LTD

21/00757/TDET

The proposal is for the installation of a 20 metre phase 8 monopole, with a wraparound cabinet, along with 2no. freestanding cabinets at the base and ancillary works, on a grassed verge, adjacent to Waterhays Farm telephone exchange on Cedar Road. The application site is located within the Urban Area of the Borough as identified within the Local Development Framework Proposals Map.

Unless a decision on this application is communicated to the developer by the 21st September 2021 the development will be able to proceed as proposed.

RECOMMENDATIONS

(a) That prior approval is required, and

(b) That such prior approval is GRANTED

Reason for Recommendation

Given the height of the proposal, which will result in a clear visual change to the area surrounding the application site, prior approval is required. The proposed development would be sited adjacent to existing street furniture within the highway verge, including street lighting columns and equipment cabinets and whilst the proposal would be clearly visible within the street scene it is considered to represent an appropriate location and design. In the absence of any significant visual harm and also taking into account the weight given to proposals relating to the maintenance of the telecommunications network, prior approval should be granted.

KEY ISSUES

The application is for a determination as to whether prior approval is required for the installation of a 20 metre phase 8 monopole, with a wraparound cabinet, along with 2no. freestanding cabinets at the base and ancillary works, within the grassed verge, adjacent to Waterhays Farm telephone exchange on Cedar Road.

The application site is located within the Urban Area of the Borough as identified within the Local Development Framework Proposals Map.

The Council must initially decide whether prior approval is or is not required to the siting and appearance of the development and if prior approval is required go on to consider whether it should be granted.

Is prior approval required?

Prior approval is only required where local planning authorities judge that a specific proposal is likely to have a *significant* impact on its surroundings.

The proposed development comprises a new 20 metre high monopole and ancillary ground based equipment cabinets located on a grassed verge within an urban area of the Borough. The monopole would be clearly visible within the street scene and on this basis it is considered that prior approval is therefore required.

Should prior approval be granted?

Paragraph 114 of the NPPF states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

Paragraph 115 states that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

Saved Policy T19 of the Local Plan supports proposals for telecommunications development that do not unacceptably harm the visual quality and character of sensitive areas and locations such as the countryside and do not adversely affect the amenity of nearby properties. Such development is also supported provided that there are no other alternative suitable sites available.

The purpose of the proposed development is to extend high- speed 5G mobile coverage to this part of Crackley,

Details submitted with the application confirm that the applicant has encountered difficulties finding a suitable place for the proposed development, given the residential nature of the surrounding area. The application identifies that a number of other sites were considered, however these were discounted for numerous reasons, including the proximity to residential properties.

The proposed development would be sited in an area of public amenity land close to the highway of Cedar Road.

The proposed development would be sited adjacent to several small trees and although the main section of the tower would still be highly visible, they will help to soften some of the overall visual impact of the proposed development, particularly when the pole is viewed from the Northeast. The existing adjacent equipment cabinets associated with the Waterhays Farm Telephone Exchange would also ensure that the proposed development is not the only piece of infrastructure in the vicinity. In addition there are no residential premises directly adjacent to the application site, the nearest of which is located approximately 27m to the northwest of the site.

Whilst it is recognised that the proposed development will have a clear visual presence in the area surrounding the application site, given the benefits of the proposed development to local residents and the siting of the pole away from nearby properties, it is considered that on balance, that the siting and design of the proposed development is acceptable and would meet the guidance and requirements of the NPPF.

It is not possible to impose conditions on the grant of prior approval but the General Permitted Development Order 2015 requires the development to be carried out in accordance with the submitted application details.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The public sector equality duty requires public authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership

- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal and the matters that can be addressed, it is considered that it will not have a differential impact on those with protected characteristics.

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 T19: Telecommunications Development – General Concerns
Policy T20: Telecommunications Development – Required Information

Other Material Considerations include:

National Planning Policy

[National Planning Policy Framework \(2021\)](#)

[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

None relevant

Views of Consultees

Comments were invited from the **Highways Authority** and the **Environmental Health Division** and in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

Representations

None received.

Applicant/agent's submission

The applicant has submitted the requisite plans and application form.

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/21/00757/TDET>

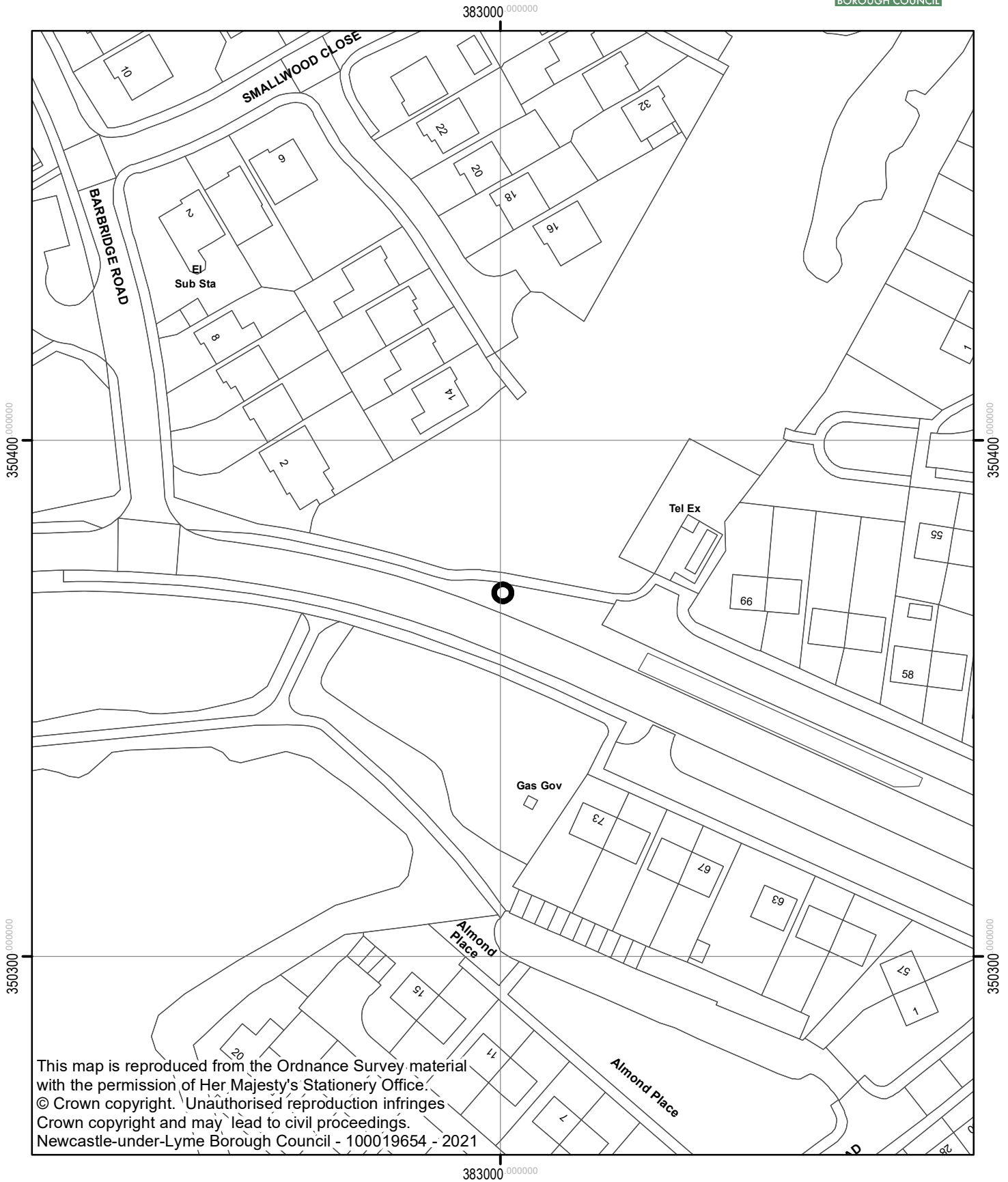
Background Papers

Planning File referred to
Planning Documents referred to

Date report prepared

1st September 2021

Land Adjacent Waterhays Farm Telephone Exchange,
Cedar Road
21/00757/TDET



This page is intentionally left blank

LAND NORTH OF PEPPER STREET, KEELE
KEELE HOMES LIMITED

21/00780/DOB

The application is for the modification of a planning obligation made under Section 106 relating to outline planning permission 13/00970/OUT for residential development of up to 100 dwellings.

The completed S106 agreement secured, amongst other things, affordable housing at a level that wasn't compliant with policy and also secured the requirement that viability is reappraised should the development not substantially commence within a specified time period. This enables the Local Planning Authority to secure further affordable housing should the viability of the development have improved to the extent where further provision would not render it unviable.

The S106 has previously been modified on two occasions, the most recent modification provided an additional 12 months for the development to be substantially commenced, at which point the developer is required to prepare and submit a revised viability report if this trigger is not reached. This would extend the period of time to 25 September 2021.

The modification sought in this application is to provide an additional 9 months for the development to be substantially commenced extending the period until 25 June 2022.

The 8 week determination period for this application expires on 22nd September 2021.

RECOMMENDATION

That the application to modify the S106 agreement, by extending the period of time within which the developer must substantially commence development before the need for a revised viability report is triggered to 25 June 2022, be approved.

Reason for Recommendation

The obligation continues to serve a useful purpose, but would serve that purpose equally well subject to the modifications specified in the application.

Key Issues

The application under Section 106A of the 1990 Town and Country Planning Act seeks to modify the planning obligations entered into on the 2nd April 2015 prior to the grant of outline planning permission (13/004970/OUT) for residential development of up to 100 dwellings, as varied by the Deed of Variation (DoV) dated 17 December 2019 and 20th August 2020.

As indicated above the modification sought is to paragraph 2 of Schedule 6 of the Agreement as amended by the DoV to provide a further 9 months for the development to be substantially commenced, at which point the developer is required to prepare and submit a revised viability report if this trigger is not reached. This is additional to the 12 months extension already granted. This would extend the period of time from 25th September 2021 to 25 June 2022.

This application is again made in response to the impact that Covid-19 has had on construction. Such impacts are acknowledged.

Keele Parish Council have expressed surprise in the delay in the commencement of development and the need for this application given the speed of house construction taking place in the local area.

Whilst initially there was little interest in this site from house building companies it is understood that this has now changed and that a developer could be secured in the near future. It is, however, clear that substantial commencement of the development as defined in the planning obligation is no longer possible by the current deadline of 25th September. Unless modified the requirement to carry out a reappraisal will be triggered.

The significant abnormal costs involved in preparing the site for development, primarily the remediation works to address the burning spoil heap, remain unchanged. In light of this there is little prospect that the viability of the development will have improved and that more policy compliant contributions could be secured. Notwithstanding this the requirement to carry out a viability reappraisal will create uncertainty that could discourage development of this site.

Both Keele and Silverdale Parish Councils have made reference to flood risk and to an application which seeks approval of scheme to limit the surface water run-off generated by the proposed development as required by condition 28 of the outline planning permission. The scheme that has been submitted to satisfy this condition has not, to date, been agreed with the Lead Local Flood Authority and the application remains undetermined. Such an outstanding matter is not, however, directly relevant to the determination of this Section 106A application. The condition will still need to be satisfied

Taking into consideration that the Government, in the wider interests of the economic recovery of the country, is encouraging Local Planning Authorities to be flexible and work with the construction industry to ensure development can still take place it is considered that the proposed modification should be approved.

Section 106A of the 1990 Town and Country Planning Act indicates that where an “obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to the modifications specified in the application, that it shall have effect subject to these modifications”. This is such a case and as such the proposed modification should be supported.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination

- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal and the matters that can be addressed, it is considered that it will not have a differential impact on those with protected characteristics.

APPENDIX

Material Considerations

[National Planning Policy Framework](#) (2021)

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

[Supplementary Planning Documents/Guidance](#)

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

Relevant Planning History

13/00970/OUT Residential development of up to 100 dwellings including means of access – Permitted.

15/00359/DOAHR Application under Section 106BA of the Town and Country Planning Act 1990 to revise the affordable housing contribution secured within the planning obligation entered into in association planning permission 13/0970/OUT for residential development – Permitted

18/00262/REM Application for approval of reserved matters for layout, scale, appearance and landscaping for the erection of 100 Dwellings – Permitted

20/00431/DOB Application for the modification or discharge of planning obligations made under Section 106 of the Town and Country Planning Act relating to planning permission ref 13/00970/OUT – Approved

Views of Consultees

Keele Parish Council (KPC) note that Keele Homes Ltd are requesting an extension of the deadline for the development to be substantially commenced in the land off Pepper Street. KPC are surprised by this application given the current housing market. Keele Homes have already been given a 12 month extension of the deadline for this condition in the light of the difficulties created by the pandemic. The housing market over the last year has shown a very high level of activity with prices rising rapidly. Seddon have continued to work apace on the Hawthorns site in Keele and Persimmon have begun their development off Gallows Tree roundabout. KPC are surprised that Keele Homes have been unable to find a buyer in this period and do not accept that circumstances surrounding the pandemic have made it difficult for them to do so. KPC do not accept that 9 months is a 'relatively short period of time' given that a 12-month extension has already been granted. It is clear that Keele Homes do not intend to develop the site themselves and KPC is sceptical of their capacity to find a buyer, given the amount of time the planning permission has been in place and the current state of the housing market.

KPC also note that application 13/00970/2CN28 for a scheme to manage surface water and flood risk is still pending consideration. Staffordshire County Council Flood Risk Team have commented that insufficient information had been provided to demonstrate an acceptable drainage strategy. No documents have been uploaded by the applicant since June 2020. Keele Parish Council consider it implausible that any deal could be struck with a developer until this matter has been resolved. If Keele Homes were serious about finding a developer to take on the site, surely they would have used the last 16 months to resolve issues surrounding their technical submission for 13/00970/2CN28?

Silverdale Parish Council (SPC) indicate that it is impacted by the Pepper Street Development deadline extension for a further 9 months on top of the mandated 12 months due to issues of flood risk.

Surface water and foul drainage are connected issues for Silverdale in the current proposal because giving the applicant more time to commence the development reduces the chance of county highways action and landowner consent on related flooding in Pepper Street.

Frequent flooding at the junction of Underwood Road and Pepper Street has occurred during periods of persistent or heavy rainfall. The effects – apart from blocking Pepper St entirely to traffic - has been flooding at the odd numbers 3-13 in Underwood – sometimes only front gardens- and remains a local flood risk. The threshold identified by County for capital funding priority is high as ingress of water was to penetrating into 10 properties. That is no consultation if 6 are affected or it is 'only' gardens.

SPC indicate that it has highlighted the likely cause of the drainage problem was run off from adjoining agricultural land to Pepper Street blocking the surface water drains located in Underwood Road and Pepper Street. The owner at Redhill House has recently cut back trees in the locality indicating the required action.

Silverdale Parish Council therefore opposes the proposed extension of a planning permission deadline of 9 months to Keele Homes in the application reference 21/00780/DOB.

Representations

None

Applicant/agent's submission

The application documents are available for inspection via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00780/DOB>

Background Papers

Planning File.
Planning Documents referred to.

Date Report Prepared

1st September 2021

This page is intentionally left blank

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

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

RECOMMENDATION

That the information be received.

No further correspondence has been received from the Planning Inspectorate.

Monitoring of the site continues and no activity or occupation of the site has been observed recently.

Date report prepared: 3rd September 2021

This page is intentionally left blank

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

Purpose of the Report

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

- The existing List of Local Validation Requirements was published almost two years ago and must be reviewed if it is to continue to form part of the validation of planning applications process from 1st October 2021.
- To ensure that the approved List of Local Validation Requirements reflects changes to statutory requirements, policies in the National Planning Policy Framework and the Development Plan, or published guidance following the publication of the current list.
- To provide applicants with more certainty as to what will be required when submitting a planning/listed building consent application,
- To enable the Council as the Local Planning Authority to make proportionate requests for additional information to assist in the consideration of development proposed within a planning/listed building consent application, and
- To enable the Council to refuse to register an application which is not supported by information that is identified on the List of Local Validation Requirements as being necessary in the consideration of the development proposed.

Recommendation

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

Reasons

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

1.0 Introduction

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

2.0 Background

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

requirements, is necessary to accompany planning applications. The latest LLVR was published, following a review and consultation exercise, on 1st October 2019.

- 2.2 As set out at paragraph 44 of the National Planning Policy Framework (NPPF), unless the Council before 1st October 2021 reviews and publishes a new List or announces on its website that no changes are necessary, the information requirements set out in the current list will have no bearing on whether a planning application is valid after that date. Paragraph 44 goes on to indicate that the Local Planning Authority (LPA) should only request supporting information that is relevant, necessary and material to the application in question. The Development Management Procedure Order 2015 (as amended) states that in addition to being specified on an up-to-date List of LVRs information requested by the LPA for a particular planning application must be
- Reasonable, having regard, in particular, to the nature and scale of the proposed development
 - About a matter which it is reasonable to think will be a material consideration in the determination of the application
- 2.3 As set out in the PPG it is expected that both the applicant and LPA should make every effort to resolve disagreements about the information needed to support a planning application to avoid disputes over the information necessary to validate an application and reduce associated delays. There is, however, a procedure in the Development Management Procedure Order to resolve any disputes that do arise. Where the LPA maintains its position that information is required in order to validate the application, and that information is not received, or the LPA doesn't respond or register the application, an applicant may appeal to the Planning Inspectorate against non-determination of the application after the relevant time period has passed.

3.0 Consultation Process

- 3.1 The consultation on the draft revised LLVR agreed by the Planning Committee at its meeting on the 20th July took place over a period of 3 weeks ending on 20th August. The Authority wrote to 40 agents and 53 of the groups and bodies that are consulted as part of the determination of planning applications (consultees). In addition a notice was placed in the Sentinel. The draft revised List of Local Validation Requirements and details of the consultation were published on the Council's website and comment was invited.
- 3.2 The comments received and your Officer's suggested response to them are summarised in the Table attached at Appendix 1.

4.0 Next Steps

- 4.1 Once the List has been approved it will be necessary to publish it on the Council's website and at that point it will become part of the validation process. This must be done before 1st October 2021.

Background Papers

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

[Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

Date report prepared 2nd September 2021

| Consultee/ Commenter | Comments received | Proposed response/ action |
|--------------------------------|--|--|
| 1. Canal and River Trust (CRT) | <p>Further reference to the canal network could be included within the List to ensure applicants/developers are fully aware of the canal network in the Borough and the need to consider it in any relevant assessments at the earliest opportunity including the following:</p> <ul style="list-style-type: none"> • Drainage – the drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from surface water drainage and full details should be submitted and agreed. CRT consider that the proposed thresholds within the checklist for when a drainage scheme is required are too high. They would wish to know the drainage arrangements for any new building/dwellings within their consultation buffer zone. Any surface water discharge to the waterway will require prior consent from the CRT. As the CRT is not a land drainage authority, such discharges are not granted as of right-where they are granted, they will usually be subject to completion of a commercial agreement. • Lighting - waterside lighting affects how the waterway corridor is perceived, particularly when viewed from the water, the towpath and neighbouring land, for example waterside lighting can lead to unnecessary glare and light pollution if it is not carefully designed. A lighting assessment should be required for any development adjacent to, or in close proximity to the canal corridor. Any external lighting should be angled downwards and light directed into the site and it should not provide flood lighting to the canal corridor to show consideration for bats and other nocturnal species. • Land stability - a requirement should also be included for applications to include a land stability report and/or a slope stability assessment where development is proposed that may risk creating land instability and/or affect the stability/integrity of nearby land. The assessment should consider the risk of the development creating adverse effects on the stability of adjacent land and/or infrastructure, which should include canal | <ul style="list-style-type: none"> • In the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Foul and Surface Water Drainage Scheme and Sustainable Drainage' add – Development of new buildings/dwellings within canal buffer zones • In the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Lighting Assessment' add – adjacent to or in close proximity of a canal corridor – to the list of proposals for external lighting that would trigger the requirement to provide an assessment. • Add a new information driver titled '<i>Land Stability Assessment</i>' which: <ul style="list-style-type: none"> ➤ quotes the NPPF as the policy driver; ➤ specifies the type of development that trigger the requirement to provide such an Assessment as those that <i>may risk creating land instability and/or affect the stability or integrity of nearby land including canal infrastructure</i> ➤ Indicate that the information required is <i>a land and/or slope stability assessment that considers the risk of the development creating adverse effects on the stability of adjacent land and/or infrastructure and identify the extent to which mitigation measures may be needed to minimise such risks including the risk of creating instability through the imposition of additional loadings on structures such as canal embankment or cutting slopes, above tunnels or directly on canal structures (such as canal wash walls or locks).</i> ➤ Lists <i>the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust"</i> and the PPG in the column 'Where to Look for Further Assistance'. |

| | | |
|------------------------------------|---|---|
| | <p>infrastructure, and identify the extent to which mitigation measures may be needed to minimise such risks. This includes considering the risk of creating instability through the imposition of additional loadings on structures such as canal embankment or cutting slopes, above tunnels or directly on canal structures (such as canal wash walls or locks). Works on, adjacent or in close proximity to the canal corridor would need to comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust”. Government advice contained in Paragraph 183 of the NPPF is clear that new development should not contribute to unacceptable levels of land instability. Paragraph 184 is equally clear that the responsibility for securing a safe development rests with the developer. The Trust therefore considers that a requirement within the List of Local Validation Requirements to provide such assessments is consistent with both the NPPF and the further guidance on land stability contained in NPPG.</p> | |
| <p>2. The Coal Authority</p> | <p>No objections or comments but would like to draw to attention that in respect of the Submission of the Coal Mining Risk Assessment the policy driver has now changed to paragraphs 183/184 of the recently updated NPPF.</p> | <ul style="list-style-type: none"> • A check of all references to the NPPF within the List of Local Validation Requirements should be carried out and references to paragraph numbers amended as required so as to be consistent with the recently published latest version of the NPPF. |
| <p>3. The Conservation Officer</p> | <p>Reference should be made to the need to provide Heritage Assets for non-designated heritage assets, in line with the NPPF.</p> | <ul style="list-style-type: none"> • In the column headed ‘Types of Applications and Geographic Location(s) that Require this information’ against the information item ‘Heritage Asset Statement’ add reference to <i>non-designated</i> as well as designated assets. |
| <p>4. County Ecologist</p> | <p>Biodiversity, Tree Protection Section 4 references NPPF 118, which does not seem relevant as it refers to High Quality Communications? Similarly 141 and 149 are referenced and appear to relate to development in the green belt, and 170-172 refer to coastal change. 176 and 177 refer to landscape designations that are not present in Newcastle. 175 and 179 refer to plan-making but should probably be included as references because these discuss important concepts such as ecological networks and biodiversity opportunity mapping (referred to on page 7).</p> | <ul style="list-style-type: none"> • The references to paragraphs set out in the draft LLVR relate to the previous version of the NPPF. As indicated above a check of all references to the NPPF within the List of Local Validation Requirements should be carried out and references to paragraph numbers be corrected, and additional paragraphs included if appropriate, so as to be consistent with the recently published latest version of the NPPF. • In the column headed ‘What Information is Required’ against the information item ‘Biodiversity survey and report’ amend - “It should be demonstrated that adverse impacts on important habitats and |

NPPF 174 is crucial and brings in the concept of biodiversity net gain (d). There are now Defra metrics (one each for large and small developments) to measure whether net gain is likely to be achieved, either onsite or through offsite measures. Applicants should be encouraged and preferably obliged to evidence net gain through the use of these metrics unless it is obvious that the balance of built and soft development will remain the same within the red line boundary. Since 174 does not refer to no net loss, text on page 6 (under col 4) could be updated:

compensation is proposed that results in ~~no net loss of biodiversity or to achieve net gain if/when this becomes mandatory~~, preferably demonstrated via submission of the appropriate Defra metric.

NPPF 180-182 should be referenced. In particular 180 a) explains the avoid-mitigate-compensate hierarchy, which is covered in the 'what information is required' section on page 6. 180 d) refers to irreplaceable habitats including veteran trees and ancient woodland, both of which are important in the rural part of the Borough. Newcastle also has some areas of peatland (Chorlton and Craddocks Moss, for example) and Meres which are also irreplaceable because they are the result of glaciation.

It may be worth making it clear that where initial ecology reports indicate that additional protected species surveys are needed, such as bat emergence surveys, the application cannot be validated until these are complete.

It may also be worth referring to District Level Licencing for great crested newts, if the borough is likely to take part in this in the near future. Contact Emma.lawson@naturespaceuk.org for information – suggested text could read 'survey and mitigation for great crested newts may be simplified or avoided under the District Level Licencing scheme operated by NatureSpace and expected to be available for Newcastle by date

Archaeology / Historic Environment

species have been avoided where possible and that unavoidable impacts have been fully mitigated or that, where mitigation is not possible, compensation is proposed that results *in net gain preferably demonstrated via submission of the appropriate Defra metric*".

- In the column headed 'What Information is Required' against the information item 'Biodiversity survey and report' add the following text "*Please note that where initial ecology reports indicate that additional protected species surveys are needed the application will not be registered as valid until these have been completed.*"
- The Borough Council has not 'signed up to' District Level Licensing in respect of Great Crested Newts and as such it is not appropriate to add reference to this in the LLVR at this time.
- In the column headed 'What Information is Required' against the information item 'Heritage Asset Statement' make the amendments recommended under heading 'Archaeology/Historic Environment' in the adjoining column.
- The comments regarding public rights of way are noted and these matters will be highlighted in discussions about proposed developments that take place with officers as necessary. It is not, however, considered appropriate to introduce a new information requirement and there are no information items within the LLVR under which such reference could be added.

The following changes under the archaeology section (What Information Is Required on Pages 16 and 17) are suggested:

'Where the development has the potential to impact archaeological remains, as a minimum, a desk based assessment should be provided summarising the following;

- Justification for development affecting a Scheduled Monument or other significant archaeological remains
- The historic development of the site and surrounding area.
- The nature and extent of the above- and below-ground remains known/ likely to be present.
- The impact that the proposed development is likely to have on surviving assets.
- Proposed mitigation (if any)

Where archaeological assessments are required it may be necessary to undertake field evaluation and trench surveys, which should be carried out by a qualified professional. In such cases the developer will need to submit a proposed written scheme of investigation. Early consultation with Staffordshire County Council Historic Archaeologist, Historic England as well as the Borough Council's Conservation Officer (as appropriate) is advised to determine the need for and scope of any such archaeological works.

As a minimum the Historic Environment Record (HER) which is maintained by Staffordshire Council should be consulted. For a small fee the County Council can provide Pre-application Archaeological Advice, which will provide a summary of the historic environment interests, following a review of the HER, and set out recommendations, and suggested conditions'

It is also suggested changing 'Scheduled Ancient Monument' on page 14 to 'Scheduled Monument'.

| | | |
|-----------------------|---|---|
| | <p>Public Rights of Way</p> <p>There is no mention of the impact of development on public rights of way that either are directly affected or are in the local vicinity. Any public right of way directly affected should be considered in the early stages of the planning process and contact made with Staffordshire County council to discuss possible mitigation. The increased use of surrounding local routes should be taken into account and provision made for the improvement and maintenance of those routes leading to and from the development site.</p> | |
| 5. Highways England | None of the proposed changes are likely to affect the validation of the Strategic Road Network and they have no recommendation or comment to make. | <ul style="list-style-type: none"> No amendment required |
| 6. Natural England | <p>Some agricultural developments will result in increases in air emissions and should be included as a type of application which triggers the requirement for an Air Quality Assessment. As a guide to whether the proposal exceeds Natural England's Impact Risk Zone thresholds, applicants can look at Defra's 'Magic' data. Under 'What information is required' they suggest that it is stated that an Air quality assessment maybe required to understand the impacts on environmental receptors.</p> <p>In respect of the information item 'Biodiversity survey and report' it is suggested that we may wish to revise the terminology used in regard to European and International sites as the Habitats and Species Regulations have been amended to reflect the UK's exit from the EU.</p> | <ul style="list-style-type: none"> In the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Air Quality Assessment' add <i>agricultural developments that exceed Natural England's Impact Risk Zone thresholds providing a link to the Defra data.</i> In the column headed 'What information is Required' against the information item 'Air Quality Assessment' add - <i>the Assessment should identify the impacts of the development on environmental receptors and the extent to which mitigation measures may be required.</i> Ensure that the correct terminology is used against the information item 'Biodiversity Survey and Report' |
| 7. Rob Duncan (agent) | <ul style="list-style-type: none"> Biodiversity Reports. Guidance should make clear that bat survey are not required for conversion / alteration of buildings with metal roofs, as this is not suitable habitat for bats. The Local Authority should adopt CIL to address matters of local infrastructure. Such statements are unduly onerous. The requirement to undertake Design Review on all major applications is unduly onerous and impractical - it should be a | <ul style="list-style-type: none"> The 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Biodiversity survey and report' is consistent with the Biodiversity and Geological Conservation Validation Checklist published by Staffordshire County Council which was written by the County's Ecologist. As such it is not considered appropriate or necessary to make reference to there being no requirement to undertake a bat survey on buildings with metal roofs. |

voluntary issue rather than a requirement. Perhaps revise to refer to 'strategic major' developments.

- Matters of drainage are covered by the Building Regulations. It is unduly onerous to require the submission of a drainage scheme for non-major developments, and the threshold should be revised to 10 units or more.
- The requirement for a Foul Sewage Statement is unduly onerous as all new development will inevitably connect to the existing drainage system if not provided with its own on-site provision such as a package treatment plant.
- Landscape/Visual Impact Assessment (LVIA) reports should be optional at the discretion of the developer or threshold revised to strategic major development
- Landscape Master Plans should be optional at the discretion of the developer or threshold revised to strategic major development
- The requirement to provide 'Open Space Assessments' is unduly onerous and duplicates other documents (infrastructure statement)
- The requirement to provide 'Photographs/Photomontages and/or Computer Generated Images and 3D models' is unduly onerous and should be optional at the discretion of the developer
- The requirement to provide a 'Statement of Agricultural Need' should make allowance for such arguments to be set out in a Planning Statement
- Structural Surveys should not be required where the building is evidently in a sound structural condition as some buildings are

- It is unclear as to why reference is made to CIL as the List of Local Validation Requirements (LLVR) does not require the submission of an Infrastructure Statement. The adoption of CIL is not a matter for consideration in this review of the List of Local Validation Requirements (LLVR). Should CIL be adopted then it may be necessary to carry out a further review of the LLVR and make adjustments as appropriate. No amendments are required or appropriate in this regard.
- In practice it is not a requirement that all major applications have first undergone design review before the application is registered. A judgement is made during the pre-application and/or validation process as to whether this requirement meets the statutory tests (i.e. it is reasonable having regard, in particular, to the nature and scale of the proposed development and about a matter which it is reasonable to think will be a material consideration in the determination of the application) and only required where the tests are met. Such judgement is made on a case by case basis as it is not possible to identify the types of major development where Design Review would not meet the tests and should be excluded from this requirement. Given the increased emphasis placed on the importance of good design it is not considered appropriate to make any amendment to this information item.
- Amend what is stated in the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Foul and Surface Water Drainage Scheme and Sustainable Drainage' by omission of reference to residential development of 5 or more properties.
- Amend what is stated in the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Foul Sewage Statement' to say "Where it is proposed that a *major* development will be connected to the existing drainage system. Where the development involves the disposal of trade waste or the disposal of foul sewage effluent other than to the public sewer"
- It is not appropriate for the submission of a LVIA to be optional and at the discretion of the development as an applicant may not be prepared to provide such an Assessment even though visual impact

| | | |
|--|--|--|
| | | <p>may be a material consideration. Any changes to, or deletion of, this information item should not be agreed.</p> <ul style="list-style-type: none"> • It is not appropriate for the submission of a Landscape Master Plan to be optional and at the discretion of the development as an applicant may not be prepared to provide this even though it is reasonable to require such a Plan and consider that it may be a material consideration. It can be agreed, however, to amend what is stated in the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Landscape Master Plan' to say "Applications involving <i>strategic</i> major development" • It is not considered that the requirement to provide an Open Space Assessment is either unduly onerous or is duplicated by other information items in the LLVR. Consideration of the impact of development on open space has clear policy drivers and meets the statutory tests for inclusion. Any changes to, or deletion of, this information item should not be agreed. • It is agreed that the requirement to provide 'Photographs/Photomontages and/or Computer Generated Images and 3D models' is unduly onerous and that this information item should be deleted from the LLVR. Such a deletion would not prevent the LPA from requesting such information where that would assist in consideration of the planning proposal. • The requirement to provide a 'Statement of Agricultural Need' does not prevent such a statement being included in a Planning Statement and as such it is considered that no amendments are required to this information item. • Amend what is stated in the column headed 'Types of Applications and Geographic Location(s) that Require this information' against the information item 'Structural Survey' to say "Development involving the reuse of rural buildings, <i>unless evidently structurally sound</i>. All applications for the demolition of listed buildings and unlisted buildings within the Conservation Area" |
|--|--|--|

| | | |
|----------------------------------|---|--|
| <p>8. Sport England (SE)</p> | <p>SE validation requirements for planning applications affecting playing field land has been provided that sets out the information that enables them to provide a substantive response to applications on which it is consulted and will also aid the LPA to assess an application in light of paragraph 99 of the NPPF and relevant Local Plan Policies</p> | <ul style="list-style-type: none"> The 'What Information is required' section of information item 'Open Space Assessment' already includes the validation requirements from Sport England's checklist. No amendment therefore required. |
| <p>9. Staffordshire Police</p> | <p>Consideration should be given to the inclusion of the following documents under the 'Where to Look for Further Assistance' column:</p> <ul style="list-style-type: none"> Historic England's 'Heritage Crime Prevention Measures – Guidance for Owners, Tenants and Managers of Heritage Assets' against the information item 'Heritage Asset Statement' Standards for Public Cycle Parking' jointly published by the Bicycle Association, Sustrans and Secured by Design against the information item 'Parking Provision Details' | <ul style="list-style-type: none"> Agreed – reference and links to these document should be added |

HALF YEARLY REPORT ON PLANNING OBLIGATIONS

Purpose of the Report

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

Recommendation

- a) That the report be noted

Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on the 2nd March 2021 and covered the period between the 1st April to the 30th September 2020. This report now covers the period between the 1st October 2020 to the 31st March 2021 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, contributions that have been received as a result of planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete.

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

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

The Council has not published an IFS and limited progress has been made in preparing the necessary information to be included in the IFS. In the meantime your officers will continue to prepare this half yearly report.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2020 – 31st March 2021)

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

| Application reference and date of agreement or undertaking | Location of development | Development | Purpose of the obligation(s) entered into by developers/owners | The level of contribution(s) payable when development trigger achieved |
|---|--|--|---|---|
| 18/00997/FUL 12 th October 2020 | Compound C And Compound E Lymedale Cross Lower Milehouse Lane Newcastle Under Lyme | New employment development comprising a warehouse and office unit and 7 no. Business Starter Units (Use Classes B1, B2 & B8). | Travel Plan Monitoring fee | £2,407 (Index Linked) SCC |
| 19/00804/FUL 13 th October 2020 | St John The Evangelist R C School, Gloucester Road, Kidsgrove | Construction of new two storey teaching block to move existing pupil provision from other site in Kidsgrove, along with associated new playground/net ball space, additional and revised car parking provision and access arrangements, new fencing and landscaping. | Mode Shift Stars Scheme fee | £5,000 (Index Linked) SCC |
| 20/00336/FUL 17 th December 2020 | Newcastle Baptist Church, London Road, Newcastle Under Lyme | Application for the variation of condition 2 of 14/00477/FUL (Demolition of former | Deed of Variation that preserves the Council's position in respect of obligations secured prior to the grant of permission 14/00477/FUL | N/A |

| | | | | |
|--|--|---|---|---|
| | | Newcastle Baptist Church and erection of residential apartment development containing 14 no. 2 bed units and 8 no. 1 bed units, formation of new access and associated car parking) to allow for the enclosure of the open air corridors and subsequent changes to the elevations and car parking | | |
| 20/00463/FUL 17 th December 2020 | Land Off Watermills Road, Chesterton, Newcastle Under Lyme | Residential development of No.67 Dwellings including means of access. | 25% on-site Affordable Housing Public Open Space Contribution towards the enhancement of public open space. | N/A £373,793 (Index Linked) NBC |
| 20/00282/FUL 6 th January 2021 | Morston House, The Midway, Newcastle Under Lyme | Conversion of Lower Ground and Upper Ground Floors for Student Residential Development of 31 No Studio Flats. | Public Open Space Contribution towards the maintenance, improvement and enhancement to playground facilities at nearby town centre public realm and green spaces. Travel Plan Monitoring fee | £60,357 (Index Linked) NBC £2,443 (Index Linked) SCC |
| 20/00369/FUL 11 th February 2021 | Land Off Cross Street, Chesterton, Newcastle Under Lyme | Demolition of all existing buildings and a) full planning permission for the development of 9 bungalows (C3 Use Class) along with car | Travel Plan Monitoring fee | £2,443 (Index Linked) SCC |

| | | | | |
|--|--|--|--|---|
| | | parking, landscaping and associated amenity space; and b) outline planning permission with all matters reserved except access for (i) the development of 43 dwellings (C3 Use Class) and (ii) an older persons scheme comprising 73 supported living apartments for the over 55's and associated communal facilities, along with additional car parking, landscaping and amenity space | Off-site Public Open Space Provision | £5,579 for each family home and £4,933 for each older persons accommodation (Index Linked) NBC |
| | | | Financial Viability Re-Appraisal Mechanism | Not Applicable |
| 20/00557/FUL 11 th February 2021 | One London Road, London Road, Newcastle Under Lyme | Variation of condition 2 of planning ref 16/01106/FUL (to be changed to approve minor amendments to the planning drawings). | Deed of Variation that preserves the Council's position in respect of obligations secured prior to the grant of permission 16/01106/FUL. | N/A |

Table 2 – Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1st October 2020 – 31st March 2021)

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

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

Table 3 - Development where financial contributions have been made (1st October 2020 – 31st March 2021)

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

| Permission reference | Location of development | Development | Purpose of the obligation(s) subject of contributions received | Contribution made and to whom |
|-----------------------------|--|---|---|--------------------------------------|
| 18/00960/FUL | Land Adjacent Number 86 Buckmaster Avenue Newcastle Under Lyme | Variation of condition 2 of planning permission 18/00152/FUL (for construction of 4 dwellings) to substitute plans so as to amend roof pitches and windows on plots 3 and 4 and siting of garage on plot 4. | Public Open Space Contribution towards Lyme Valley Parkway playground | £6,059.94 NBC |
| 17/00798/FUL | The Offley Arms, Poolside, Madeley | Erection of 3no. dwellings and conversion of outbuilding to form 1no. apartment | Public Open Space Contribution towards recreation ground at Birch Dale, Madeley | £5,479 NBC |
| 13/00426/OUT | Land At End Of Gateway Avenue, Baldwins Gate | Erection of up to 113 dwellings and associated works | Affordable Housing contribution | £389,013 NBC |

Table 4 - Development where financial contribution have been spent. (1st October 2020 – 31st March 2021)

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

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

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

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

| Permission reference & Date of Obligation & enforcement case reference | Location of development | Development | Purpose of the obligation and description of the apparent breach | Action taken and to be taken to resolve the apparent breach. |
|---|---|---|---|--|
| 03/00880/OUT 26th July 2005 19/00118/207C2 | Site of Former Packmoor Sports and Social Club, Turnhurst Road, Newchapel | Residential development | Non-compliance with Clause 4.5 of S106 agreement which required a strip of land 1.5m wide either side of the centre line of certain Footpaths to be dedicated as highways immediately after the grant of planning permission. | The development has been built out and inquiries have been made recently about this breach with the landowner's agent. An update will be provided when there is further information available. |
| 17/00252/FUL 21 st July 2017 19/00123/207C3 | Former Jubilee Baths Nelson Place, Newcastle (now the Sky Building) | Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking, alternative to Planning Approval 15/00166/FUL | Non-payment of part of the Residential Parking Zone Contribution (£48,000 index linked), and the Travel Plan Monitoring Fee (£2,200 index linked) required by Section 106 Agreement | The payment of the complete residential parking zone contribution was by either occupation of the building or by 30th September 2017 (whichever is the earliest), and the Travel Plan Monitoring Fee by 7th August 2017. Clarification has been sought from the County Council. An update will be provided when there is further information available. |
| 11/00284/FUL 6 th February 2013 | Former Site Of Silverdale Station And Goods Shed | Erection of twenty three houses | Non-compliance with obligation requiring payment of financial contributions - £66, 689 (index | Non-compliance with obligation requiring payment of financial contributions, as follows, have been reported to Committee |

| | | | | |
|----------------|-----------------------------|--|--|--|
| 19/00129/207C3 | Station Road, Silverdale | | linked to public open space, £55,155 (index linked) towards primary school places and £26,244 (index linked) towards the Newcastle-under-Lyme Urban Transport Development Strategy (NTADS) | <ul style="list-style-type: none"> • £66,689 (index linked to public open space, • £55,155 (index linked) towards primary school places and • £26,244 (index linked) towards the Newcastle-under-Lyme Urban Transport Development Strategy (NTADS) <p>In addition the S106 agreement secured a financial viability review mechanism should development not be substantially commenced by a certain date, which might lead to a contribution to affordable housing off site.</p> <p>The District Valuer has conducted a financial viability appraisal to determine whether the development could support policy compliant planning obligations or any level of contributions towards off-site affordable housing provision. The report received concluded that the development would not be viable to contribute further payment for off-site affordable housing provision and this conclusion is accepted by your Officer. On this basis it is the payments set out above that are required.</p> <p>The final payment (which requires indexation and the addition of interest due to late payment) was calculated informing them what the due payments are and seeking confirmation as to when they will be</p> |
|----------------|-----------------------------|--|--|--|

| | | | | |
|--------------|--|---|---|---|
| | | | | <p>paid to the relevant Council. To date a response has not been received.</p> <p>Additional legal advice has now been obtained with reference to exploring the Councils powers to pursue parties in respect of the breach. Based on this advice, officers are pursuing these routes with an intention to address the breach that has occurred.</p> |
| 18/00693/FUL | Orchard House, Clayton Road, Newcastle Under Lyme | Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over. | Non-compliance with obligation requiring payment of financial contributions - first instalment of £103,341 (index linked to public open space). | <p>The first instalment of the public open space contribution was due within three months of the commencement date of the approved development.</p> <p>It is believed that the commencement date was in early 2019 and so the payment is at least 24 months overdue.</p> <p>The applicant has been approached about the non-payment and advises that they are not in a position to make payment at this moment in time but they hope to resolve the matter as soon as possible.</p> <p>In the current economic climate your officers do not consider that it is appropriate to take formal enforcement action. The overdue payment is subject to interest from the date when the trigger for payment was achieved and this will be applied when the developer is in a position to make the payment.</p> |