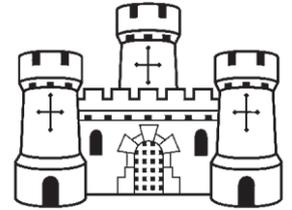


Public Document Pack

Date of meeting Thursday, 26th May, 2022
Time 7.00 pm
Venue Garden & Astley Rooms - Castle House, Barracks Road,
Newcastle, Staffs. ST5 1BL
Contact Geoff Durham 742222



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

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

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 APOLOGIES**
- 2 DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 MINUTES OF PREVIOUS MEETING(S)** **(Pages 3 - 8)**
To consider the minutes of the previous meeting(s).
- 4 APPLICATION FOR MAJOR DEVELOPMENT - LAND BETWEEN APEDALE ROAD AND PALATINE DRIVE, CHESTERTON. GLEESON DEVELOPMENTS LIMITED & LAND IMPROVEMENT HOLDINGS. 21/00655/FUL** **(Pages 9 - 30)**
 - a Supplementary Report to Item 4 (Pages 31 - 32)
 - b Second Supplementary Report to Item 4 (Pages 33 - 34)
- 5 APPLICATION FOR MAJOR DEVELOPMENT - UNIT E, DALEWOOD ROAD, NEWCASTLE UNDER LYME. BESTWAY NORTHERN LIMITED. 22/00092/FUL & 22/00183/FUL** **(Pages 35 - 42)**
 - a Supplementary Report to Item 5 (Pages 43 - 44)
- 6 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** **(Pages 45 - 46)**
- 7 APPEAL & COSTS DECISION - LAND AT HAZELEY PADDOCKS, KEELE ROAD, KEELE** **(Pages 47 - 48)**

Agenda Item 3

Planning Committee - 26/04/22

PLANNING COMMITTEE

Tuesday, 26th April, 2022
Time of Commencement: 7.00 pm

[View the agenda here](#)

[Watch the meeting here](#)

Present: Councillor Andrew Fear (Chair)

Councillors:	Silvia Burgess	Jennifer Cooper	Mark Holland
	Gillian Williams	Helena Maxfield	Kenneth Owen
	John Williams	Paul Northcott	

Apologies: Councillor(s) Marion Reddish

Substitutes:

Officers:	Rachel Killeen	Senior Planning Officer
	Elaine Moulton	Development Management Team Manager
	Geoff Durham	Mayor's Secretary / Member Support Officer
	Daniel Dickinson	Head of Legal & Governance /Monitoring Officer
	Jeff Upton	Interim Head of Planning

Also in attendance:

1. **DECLARATIONS OF INTEREST**

Councillor Northcott declared an interest in application item 6 – 22/00126/FUL as a Director on the Aspire Board and would not be voting on the item.

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

Resolved: That the minutes of the meeting held on 29 March, 2022 be agreed as a correct record.

3. **APPLICATION FOR MAJOR DEVELOPMENT - GREAT OAK FARM, BIGNALL END. ROBIN WARD. 21/00408/FUL**

Resolved: That, subject to the Lead Local Flood Authority not raising objections that cannot be addressed through the use of conditions, the Head of Planning be given the delegated authority to permit subject to the undermentioned conditions:

- (i) Time limit condition
- (ii) Approved Plans
- (iii) Materials
- (iv) Accordance with Tree protection plan

Planning Committee - 26/04/22

- (v) Submission of a Arboricultural Method Statement
- (vi) Submission of a landscaping scheme
- (vii) Accordance with submitted drainage scheme
- (viii) Verification report for completion of the slurry lagoon
- (ix) Lighting scheme
- (x) Any condition as required in response to the comments of the Staffordshire Flood Team

The Coal Authority's Standing Advice be provided within the Decision Notice.

[Watch the debate here](#)

4. APPLICATION FOR MAJOR DEVELOPMENT - CROFT FARM, STONE ROAD, HILL CHORLTON. DAVID JAMES DEVELOPMENTS LIMITED. 22/00046/REM

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

- (i) Link to outline planning permission and conditions
- (ii) Approved plans
- (iii) Tree protection plan
- (iv) Arboricultural method statement
- (v) Schedule of works for retained trees
- (vi) Provision of access, parking and turning areas
- (vii) Details of materials
- (viii) Details of boundary treatments
- (ix) No street lighting to be installed without prior approval of its appearance.

[Watch the debate here](#)

5. APPLICATION FOR MAJOR DEVELOPMENT - ASHFIELDS GRANGE, HALL STREET, NEWCASTLE. ASPIRE HOUSING. 22/00126/FUL

Resolved: That the variation of Conditions 1 and 24 of planning permission 20/00609/FUL be permitted, to substitute approved plans with revised plans to secure amendments to the design of roof parapets and the landscape design of the third floor roof terrace, along with the rewording of condition 24 to read as follows;

“Prior to the occupation of the development hereby approved the following Electric Vehicle Charging Provision shall be made available on site and maintained for the lifetime of the development;

- *12 of the 48 parking spaces must be provided with a fully operational electric vehicle charging point, which shall include 1 disabled space and 1 staff parking space*
- *All other parking spaces shall be provided with duct infrastructure to allow future charging point connection.*
- *Charge points are to be a minimum of 32Amp with Type 2 Mennekes connections, Mode 3 (on a dedicated circuit) or equivalent.*

Reason: To enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations, in accordance

with the requirements of the National Planning Policy Framework 2021.”

and subject to the imposition of all other conditions attached to planning permission 20/00609/FUL that remain relevant at this time, amended as necessary.

[Watch the debate here](#)

6. APPLICATION FOR OTHER DEVELOPMENT - 15 MORSTON DRIVE, CLAYTON, NEWCASTLE-UNDER-LYME. MR AND MRS P EVANS. 22/00204/FUL

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

- (i) Time limit condition
- (ii) Approved Plans
- (iii) Materials

[Watch the debate here](#)

7. APPLICATION FOR OTHER DEVELOPMENT - LAND TO EAST OF CONEYGREAVE LANE, WHITMORE. HIGH SPEED TWO (HS2) LIMITED. 22/00153/SCH17

Resolved: That the Schedule 17 application be granted subject to the undermentioned condition:

- (i) Carried out in accordance with the approved plans.

[Watch the debate here](#)

8. APPLICATION FOR OTHER DEVELOPMENT - BT TELEPHONE EXCHANGE, FAIRGREEN ROAD, BALDWINS GATE. EE LTD. 22/00262/TDET

Resolved: (a) That prior approval is required, and

(b) That such prior approval is refused for the following reasons:

- (i) The siting, scale and external appearance of the proposal development would be harmful to the visual appearance of the area and contrary to Policy CSP1 of the Core Spatial Strategy 2006-2026, Policy T19 of the Newcastle-under-Lyme Local Plan 2011, Policy DC2 of the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Plan and the aims and objectives of the National Planning Policy Framework 2021.
- (ii) The application has failed to demonstrate that the proposed development would not lead to unacceptable harm to TPO 98 and other visually significant trees adjacent to the application site. Therefore the proposal would be contrary to Policy N12 of the Newcastle-under-Lyme Local Plan 2011 and the aims and objectives of the National Planning Policy Framework 2021.

[Watch the debate here](#)

9. 5 BOGGS COTTAGE, KEELE. 14/00036/207C3

Resolved: (i) That the information be received
(ii) That a further update report be brought to this Committee in two meetings time.

[Watch the debate here](#)

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

Resolved: (i) That the information be received
(ii) That a further update report be brought to this Committee in two meetings time.

[Watch the debate here](#)

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

Members were advised that the application for the former Newcastle Library had now had a decision issued on 20 April.

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

[Watch the debate here](#)

12. APPEAL DECISION - 2 HAWTHORN GARDENS, TALKE. 21/00532/FUL

Resolved: That the appeal decision be noted.

[Watch the debate here](#)

13. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - NEWCASTLE LODGE, KEELE UNIVERSITY. 21/22004/HBG

Resolved: That the following grant be approved:

£5,000 Historic Building Grant be given towards essential fabric repairs

[Watch the debate here](#)

14. URGENT BUSINESS

There was no Urgent Business.

**Councillor Andrew Fear
Chair**

Meeting concluded at 8.45 pm

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LAND BETWEEN APEDALE ROAD AND PALATINE DRIVE, CHESTERTON
GLEESON DEVELOPMENTS LIMITED & LAND IMPROVEMENT HOLDINGS

21/00655/FUL

The application seeks full planning permission for the erection of 330 no. dwellings, including open space, new vehicular access off Apedale Road, and associated infrastructure and earthworks.

The site has previously been subject to mineral extraction but it is un-restored and has re-naturalised since the mineral extraction ceased. Therefore, it represents a Greenfield site.

The application site, of approximately 16.1 hectares in extent, is within an Area of Landscape Regeneration and the Newcastle Urban Neighbourhood and abuts the Green Belt, as indicated on the Local Development Framework Proposals Map.

This application was reported to Committee on the 6th January but a decision was deferred to allow further time for matters to be resolved, in particular concerns raised by Staffordshire Wildlife Trust, the level of onsite open space provision and discussions regarding the allocation of available financial contributions towards the improvement of off-site public open space and/or the Country Park.

The statutory 13 week determination period for this application expired on the 27th September and a subsequent extension of time to the statutory determination period has been agreed to the 10th June 2022.

RECOMMENDATIONS

A. Subject to the applicant first entering into a Section 106 obligation by the 15th July 2022 to secure undertakings to carry out earthworks to restore the land affected by former quarrying and to oblige the owner not to further implement a permission for clay extraction; a residential travel plan monitoring fee of £7,000; a management agreement for the long term maintenance for the open space on-site; a financial contribution of £140,000 towards the improvement and maintenance of off-site public open space and/ or Apedale Country Park; a financial contribution of £249,317 towards off-site Biodiversity enhancements; and a review mechanism of the scheme's ability to make a more or fully policy compliant obligations, including the provision of affordable housing, if the development is not substantially commenced within 24 months from the date of the decision, and the provision of such affordable housing if then found financially viable,

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

- 1. Standard time limit for commencement of development;**
- 2. Approved plans;**
- 3. Facing and roofing materials;**
- 4. Boundary treatments incorporating the recommendations of the County Ecologist;**
- 5. Hardstandings;**
- 6. Provision of access, internal roads, private drives and parking areas;**
- 7. Surfacing materials and surface water drainage for the private drives and parking areas;**
- 8. The provision of a footway on the southern side of Apedale Road from the site access to the junction of Audley Road / Castle Street;**
- 9. Garages retained for vehicle parking;**
- 10. Secure cycle storage;**
- 11. Electric vehicle charging provision;**
- 12. Residential Travel Plan Framework;**
- 13. Highway & Environmental Construction Management Plan (CMP);**
- 14. Tree protection measures;**
- 15. Prior approval and implementation of updated soft landscaping masterplan;**
- 16. Prior approval of detailed plans for areas of open space and play equipment**
- 17. Archaeological investigation and implementation;**
- 18. Land contamination remediation;**
- 19. Ground gas investigations;**
- 20. Unexpected land contamination;**
- 21. Prior approval of soil/ material importation;**
- 22. Flood risk mitigation measures;**
- 23. Detailed surface water drainage scheme;**
- 24. Construction Environment and Ecology Management Plan;**
- 25. 10 year Ecology and Landscape Mitigation and Management Plan (ELMMP);**
- 26. Provision of bat, bird boxes, swift bricks and sparrow terraces as per enhancements plan;**
- 27. Prior approval of external lighting;**
- 28. Waste storage and collection arrangements**
- 29. Noise mitigation measures for plots 1-5 and plots 327-330;**
- 30. Noise management and mitigation measures during construction.**

B. Should the matters referred to in (B) above not be secured within the above period, then the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure sustainable development objectives, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for recommendations

Whilst the site is Greenfield and there would be impacts on the sites biodiversity, the redevelopment of the site for housing, which would make a significant contribution to the Councils housing supply, within

a sustainable urban location, accords with local and national planning policy and all impacts can be suitably mitigated. The scheme is considered acceptable in terms of its design, its impact on the landscape, highway safety and trees. Subject to an acceptable level of on-site public open space being secured, along with a number of appropriate conditions, the development represents a sustainable form of development and should be supported.

It is accepted, following receipt of independent financial advice, that a policy compliant scheme is not viable and that the scheme can only sustain a certain level of contributions but the benefits of the development are considered to outweigh the harm caused by the additional demand created by the development on the area. A Section 106 agreement is required to secure appropriate and justified S106 Obligations, including financial contributions which can be afforded, along with a viability review mechanism should substantial commencement not be achieved promptly.

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

The LPA has engaged in pre application discussions with the applicant and officers of the Authority have requested further information throughout the application process and the applicant has subsequently provided amended and additional information.

KEY ISSUES

1.1 The application seeks full planning permission for the erection of 330 no. dwellings, including open space, new vehicular access off Apedale Road, and associated infrastructure and earthworks.

1.2 The application site, of approximately 16.1 hectares in extent, is within an Area of Landscape Regeneration and the Newcastle Urban Neighbourhood and abuts the site of the White Rock Community Facility proposal, and the Green Belt as indicated on the Local Development Framework Proposals Map.

1.3 The site previously received outline planning permission in December 2014, reference 13/00525/OUT, for a residential development of up to 350 dwellings including open space, new vehicular accesses, infrastructure, ancillary development and associated earthworks. A reserved matters application was not received and the outline permission subsequently lapsed.

1.4 A section of the site was previously used for mineral extraction. However this part of the site is un-restored and has re-naturalised since the mineral extraction ceased. This is the subject of a planning permission granted in 1949 for the working of clay, and deposit of waste materials. A clause in the previous S106 Agreement for the outline permission included undertakings to carry out earthworks to restore the land affected by former quarrying and to oblige the owner not to further implement a permission for clay extraction. The County Council, as the minerals and waste planning authority raise no objections subject to a clause in the S106 Agreement to secure suitable restoration works.

1.5 The application site is located adjacent to a known archaeological feature, namely a Roman Fort adjacent to the neighbouring high school. The application is accompanied by an Archaeological Desk Based Assessment which is again found to be acceptable subject to conditions which secure archaeological mitigation works prior to the commencement of the development.

1.6 Representations received in response to this application have raised issues of devaluation of properties and loss of views. Such matters are not material to the determination of the application. Concern has also been expressed regarding publicity of the application. It is confirmed that the application was advertised by press notice and site notice (five in total) and as such accords with the publicity requirements set out in legislation and within the adopted Statement of Community Involvement.

1.7 The proposed development raises a number of key issues for consideration in the determination of this application, these are:-

1. The principle of the development of this site for residential,

2. The impact of the development on the landscape, including the associated engineering and restoration work and the design of the residential development,
3. The impact of the development on highway safety,
4. Acceptable standards of residential amenity,
5. Open space provision,
6. Ecological impacts and implications,
7. Flood risk and sustainable drainage,
8. Planning obligations and financial viability
9. Planning balance

2. Is the principle of the development of this site for residential purposes acceptable?

2.1 The site lies within the urban area on land designated locally as an Area of Landscape Regeneration, which abuts the Green Belt, as indicated on the Local Development Framework Proposals Map. No part of the site meets the definition of previously developed land, as contained within the National Planning Policy Framework (NPPF) and on this basis the land can be referred to as a Greenfield site.

2.2 Saved Policy NLP H1 indicates that planning permission for residential development will only be given in certain circumstances – one of these is where the site lies within the urban area of Newcastle. Residential development on the application site is therefore in accordance with policy H1.

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

2.4 Policy ASP5 of the Core Spatial Strategy (CSS) referring to the Kidsgrove and Newcastle urban neighbourhoods sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 3,200 dwellings within Newcastle Urban Central (which includes Silverdale, Thistleberry, Knutton, Cross Heath, Chesterton and the Town Centre).

2.5 It is the case that local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land. The NPPF also seeks to support the Government's objective of significantly boosting the supply of homes. It also sets out that there is a presumption in favour of sustainable development.

1.6 The Council is currently able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 7.3 years as at the 31st March 2021. Given this, it is appropriate to consider the proposal in the context of the policies contained within the approved development plan.

2.7 The NPPF has at its core a presumption in favour of sustainable development, in particular it sets out at paragraph 11 that for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

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

(Para 11(d))

2.8 Whilst the site is Greenfield, it is located in the urban area and it is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and

employment opportunities. In light of this, and bearing in mind that the Council can demonstrate a five year housing land supply the relevant policies of the development plan are considered to be up-to-date. As such the tilted balance as set out at paragraph 11(d) (ii) isn't triggered.

3. The impact of the development on the landscape, including the associated engineering and restoration work and the design of the residential development

3.1 The application site is a former quarry which has revegetated to provide grazing land. The site slopes down (descends), primarily from north-west to south-east with a steep gradient change in a central location within the site, particularly where the quarrying works were primarily undertaken. Therefore, in order to deliver a development on the site a high degree of re-profiling works are required to form development plateaus. This will require a "cut and fill" exercise and the development will need to be delivered in phases over a number of years. Given that this site is in a coal mining low risk area for development there is no basis upon which it could be concluded that the ground conditions of the site are not suitable for the proposed use.

3.2 The submitted design and access statement (DAS) sets out that the proposed site layout is designed around a clear hierarchy of roads which runs from the proposed access point into a devolving root/branch formation, including a combination of estate roads and shared private access roads/ cul-de-sacs. The site has been designed to include a good number of varied house types, with two distinct character areas to improve the aesthetic vernacular of the scheme and to create both interest and to reflect the existing vernacular of the surrounding area.

2.3 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.

3.4 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.

3.5 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 R3 states that new housing must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it, exploiting existing site characteristics, such as mature trees, existing buildings or long views and incorporating them into the proposal. In addition, Policy R14 states that developments must provide an appropriate balance of variety and consistency.

2.6 The proposed development has been presented to a Design Review Panel (DRP) at an early stage in the process, as encouraged by the NPPF. The design has evolved and enhancements have been made to the scheme to ensure that the scheme proposed is the best design for the site when considering the engineering and deliverability challenges encountered.

3.7 The proposed scheme demonstrates an acceptable level of design quality in terms of the individual house types proposed and the variety of the street scenes throughout the development. The concept of two different character types throughout the development is supported and will help to break up the street scenes visually and add architectural interest to the development. The mix of two different red facing bricks, with buff contrasts, would add interest to the street scene also. Soft landscaping and the avoidance of large expanses of frontage car parking will further supplement the appearance of the proposed development.

3.8 The site forms part of the Area of Landscape Regeneration (saved NLP policy N22). This policy states the Council will support, subject to other plan policies, proposals that would regenerate the landscape appropriate to its urban or rural location, and that where development can be permitted, developers will be expected to use the opportunity provided by the development to make a positive contribution towards landscape regeneration.

3.9 The topography of the site and the immediate and wider landscape will result in the proposed development being particularly prominent. The introduction of 330 new dwellings into the landscape will undoubtedly result in a noticeable change in the character and appearance of the landscape. However, the development will be viewed within the context of the existing residential estate to the east and it is considered that the proposed development, due to its appropriate layout and the quality of the house types proposed, would sit comfortably adjacent to the neighbouring and established residential estate. Furthermore, the proposed development would be viewed within the context of the built development on the adjacent industrial estate the west.

3.10 The site is characterised by vegetation and includes a number of good quality trees that will need to be removed due to the level of ground works required and the extent of the proposed development. However, some trees will remain on the site boundaries and the application includes a landscape masterplan which includes tree planting. The proposed development will also be broken up by on-site areas of open space, albeit primarily towards the lower lying areas towards the south west of the site.

3.11 It is acknowledged that the development would be a noticeable encroachment into the open landscape but the design of the proposed development is acceptable and subject to conditions, it will comply with design principles and policies of the Councils Urban Design Guidance, policy CSP1 of the CSS and the guidance and requirements of the NPPF.

4. The impact of the development on highway safety

4.1 Paragraph 110 of the NPPF states that in assessing specific applications for development it should be ensured, amongst other things, that appropriate opportunities to promote sustainable transport modes; safe and suitable access to the site can be achieved for all users; the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, and 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.

4.2 The NPPF further states at paragraph 111 that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development would be severe.

4.3 The development proposes 330 new dwellings with a single point of vehicular access onto Apedale Road. The proposed access would utilise an unused but existing gated access.

4.4 It is relevant to note that outline planning permission has previously been approved on the site. This permission secured the access arrangements for up to 350 dwellings on the site. However, that development had different access arrangements onto Apedale Road and secured a number of other highway benefits to mitigate the impact of the development, including improvements to the junction of Apedale Road with Castle Street and a substantial financial contribution towards bus service provision within the site and other transport improvements.

4.5 It is believed that the improvements to the Apedale Road and Castle Street junction have previously been completed but in all other respects the proposed development does not secure the same highway benefits as the outline planning permission did.

4.6 A number of objections to the application have been received raising significant concerns about the impact of the proposed development on Apedale Road, in particular the impact of congestion and associated highway safety implications due to the proposed volume of traffic using the narrow road. Similar concerns are raised about the impact on the surrounding highway network.

4.7 The application is supported by a transport assessment (TA) and travel plan (TP). The TA includes trip generation data and assessments for 330 new dwellings, along with junction capacity information for key junctions in the surrounding area. This includes the proposed T-Junction from Apedale Road which will serve the 330 dwellings. Furthermore, the results of the off-site junction capacity assessments confirm that the additional traffic arising from the development during peak periods (08:00-09:00 and 17:00-18:00) of operation does not impose a detrimentally severe level of operational impact upon all

of the modelled junctions. The data is based on a worst-case scenario and includes relevant growth assumptions also.

4.8 The Highways Authority has raised no objections to the application on the basis that the applicant has demonstrated that the proposed development would not have a 'severe' impact on the operation of the highway network, which is the test that is set out at paragraph 111 of the NPPF. They are satisfied that a single point of access onto the site is acceptable and that a second access onto Palatine Drive is not required. Furthermore, it is set out that the roads are intended for adoption and will be designed in accordance with the Staffordshire Residential Design Guide regarding the road layout and gradients.

4.9 The Council's waste management section highlighted a number of issues with the layout of the scheme, in particular road adoption and the lack of swept path details for a refuse vehicle. In response to these concerns a road adoption plan has been submitted, along with a swept path plan. Such information shows that other than a small number of short, private drives, the internal accesses are to be adopted and demonstrates that a waste vehicles can access all properties and manoeuvre within the site. Collection and storage arrangements for the dwellings can be secured by suitably worded condition.

4.10 Whilst it has been concluded that the proposed development would not have a 'severe' impact on the operation of the highway network it is also important to ensure that sustainable development objectives are achieved to further minimise the impact of the development. Importantly, paragraph 112 of the NPPF sets out that applications for development should;

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas and facilitate and encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

4.11 The site is within the urban area and within walking and cycling distance of existing amenities and services, including shops, employment opportunities, schools and public transport provision. However, the topography of the area presents a number of challenges for future residents of the site and your officers have sought a number of connectivity improvements to the wider area which should encourage and promote non-car use. These improvements will help to encourage walking and cycling, particularly to the north and east.

4.12 The connectivity improvements include a cycle and pedestrian link from the development to Horatius Road which will allow direct access to Loomer Road and the wider employment opportunities and connections of Lymedale Business Park. Off-site footpath improvements are also proposed along the south side of Apedale Road which will provide a continuous footpath from the development to existing footpaths so that future occupiers of the proposed development can walk to the village centre of Chesterton, the school and bus services.

4.13 In terms of public transport opportunities, the nearest bus stops are on Audley Road and within Chesterton village centre. HA confirm that the introduction of a new bus service along Apedale Road to serve the site has been considered via a Section 106 contribution to provide a service for a period up to 5 years. However, they consider that this option would not be sustainable in the long term because after the 5-year period expires bus operators are unlikely to continue to provide a specific service to serve the development. Therefore a contribution is not justified.

4.14 The application is supported by a residential travel plan, as encouraged by the NPPF, which can be secured by condition and a monitoring fee will be secured via a S106 Agreement. The travel plan provides a number of benefits for a development of this scale, for example the provision of a Travel Welcome Pack. Fundamentally its purpose is to reduce unnecessary car use, raise awareness of the travel options available for residents and make sustainable travel easier and more attractive. The travel

plan will be monitored by the County Council for a number of years and future residents can be involved in the monitoring process.

4.15 The proposed layout demonstrates that 803 off road car parking spaces can be provided within the site. This is considered to represent an acceptable level of car parking for the number of units proposed in this location and so the proposal complies with the requirements of Policy T16 of the Local Plan. Furthermore, a condition to secure electric vehicle parking provision for each dwelling is necessary to meet sustainable development objectives.

4.16 HA have suggested a number of conditions to make the development acceptable, including the submission and approval of a construction management plan which needs to set out, amongst other things, the routing of construction vehicles and the timing of deliveries. The conditions will make the development acceptable and in the absence of any evidence that the proposed development would result in a severe impact on highway safety, it is considered that the proposed development accords with the guidance and requirements of the NPPF.

5. Acceptable standards of residential amenity

5.1 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.

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

5.3 There are existing residential properties that front Apedale Road and share a boundary with the proposed development. The separation distances between the existing dwellings and proposed dwellings (plots) in this part of the site are acceptable.

5.4 There are also existing residential properties beyond the eastern, southern and western boundaries and the proposed development again demonstrates acceptable separation distances, in accordance with the Council's SPG.

5.5 Furthermore, the proposed development demonstrates acceptable separation distances and relationships between plots, particularly for plots that occupy a central position within the development where the difference in ground levels is significant. All plots will also have an acceptable amount of private amenity space.

5.6 The application site is also adjacent to Rowhurst Industrial Estate and the application is supported by a Noise Assessment Report (NAR) which assesses the impact of neighbouring uses, including the industrial estate, Ibstock brickworks and the highway network in the area, on the future occupiers of the plots.

5.7 The NAR sets out that noise mitigation measures will be required to protect the living conditions and quality of life of future occupiers of the proposed development due to the varied noise impacts from neighbouring land uses and operations. The mitigation measures will primarily be for plots that front, or are in close proximity to Apedale Road, namely plots 1-5 and plots 327-330.

5.8 A development of this nature and scale will also result in noise impact during earthworks and construction phases of the development which are likely to be over a number of years. The NAR advises that mitigation measures will be required to minimise the impact on the amenity of the area and whilst broad principles are discussed the NAR advises that specific management and mitigation measures will need to be agreed.

5.9 The application is also supported by an Air Quality Assessment which concludes that the proposed development will not lead to an unacceptable risk from air pollution, nor will it lead to any breach of national objectives and as such is in accordance with all relevant national policy.

5.10 The Environmental Health Division, who normally provides advice on these matters have not provided any comments on the planning application but it is considered that planning conditions will be required to protect the living conditions and quality of life of existing residents and the future occupiers of the proposed development. Subject to these conditions the development is in accordance with the NPPF, in particular paragraphs 130 and 185 of the NPPF.

6. Open space provision

6.1 Saved NLP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured.

6.2 The Councils Open Space Strategy adopts the Fields in Trust guidelines for equipped play space for developments of this size. It sets out that the development needs to provide a Local Area for Play (LAP), a Locally Equipped Area for Play (LEAP) and a Multi-Use Games Area (MUGA), along with a financial contribution towards the nearest Neighbourhood Area for Play (NEAP). The nearest and most accessible NEAP in this instance is Loomer Road.

6.3 The Landscape Development section (LDS) has previously raised concerns about the type, position and quality of proposed open space on this site and positive discussions to improve the provision are ongoing.

6.4 Your officers are content that there are a number of solutions available to ensure that an acceptable level and quality of open space is provided on the site. This will include the provision of play areas for younger and older children, whilst a trim trail will provide fitness areas for all ages and abilities. LDS have confirmed that these are often popular when consultations have been carried out, particularly with schools.

6.5 The proposed development will also need to secure a financial contribution towards existing public open space to mitigate the impact of the proposed development on existing infrastructure in the area. Therefore, despite the concerns of the LDS, it is accepted that subject to a condition which secures detailed plans for on-site open space and S106 Obligations to secure the long term management of the on-site open space, as well as an appropriate financial contribution towards off-site public open space improvements and maintenance, the proposed development is acceptable and in accordance with development plan policies and the guidance and requirements of the NPPF.

6.6 The level of financial contributions towards public open space is discussed in section 8 below.

7. Ecological Impacts and Implications

7.1 Policy CSP4 of the Core Strategy states that “the quality and quantity of the plan area's natural assets will be protected, maintained and enhanced through the following measures ... ensuring that the location, scale and nature of all development planned and delivered through this Core Spatial Strategy avoids and mitigates adverse impacts, and wherever possible enhances, the plan area's distinctive natural assets, landscape character”.

7.2 Paragraphs 174 & 180 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. If development cannot avoid significant harm to biodiversity by adequate mitigation then planning permission should be refused.

7.3 The application is supported by an Ecological Appraisal Report which has identified that a variety of habitats exist on the site including unmanaged broad-leaved woodland, hedgerows, species-poor grassland habitats, numerous ponds and scattered scrub within the site. It is clear from the site surveys undertaken by the applicant's consultant that the site supports a wide range of protected species.

7.4 Members will be aware that the previous outline planning permission for up to 350 dwellings proposed mitigation measures, including relocation (under licence) of protected species and the creation of alternative habitats and habitats sites. A number of the mitigation measures previously identified were carried out on the site following the previous outline planning permission. These included the creation and improvement of ponds which will be retained and further enhanced as part of this proposal.

7.5 As set out at paragraph 1.3, a section of the site was previously used for mineral extraction however this part of the site is un-restored and has re-naturalised since the mineral extraction ceased. This is the subject of a planning permission granted in 1949 for the working of clay, and deposit of waste materials. A clause in the previous S106 Agreement for the outline permission included undertakings to carry out earthworks to restore the land affected by former quarrying and to oblige the owner not to further implement a permission for clay extraction. The County Council, as the minerals and waste planning authority raise no objections to the current application subject to a clause in the S106 Agreement to secure suitable restoration works.

7.6 A number of objections to the application have been received due to the impact and loss of wildlife, protected species and habitats. Staffordshire Wildlife Trust (SWT) have also made strong objections to the application due to impacts on areas that meet at least five criteria for Local Wildlife Site designation, and significant loss of biodiversity without adequate avoidance, mitigation or compensation.

7.7 It is recognised that the mineral restoration works would need to be completed irrespective of the ecological impact. This is a point that needs to be considered when assessing the impact of the proposed development on the site Biodiversity.

7.8 The applicant has responded to each of the points raised within the objection of SWT. They have also submitted a Biodiversity Enhancements Plan (BDEP). The BDEP seeks to demonstrate the level of biodiversity enhancements that the proposed development will provide to address the impacts and compensate for the loss of biodiversity. The applicant advises that approximately 4.6 hectares or 29% of the gross site area will be left undeveloped and form part of the ecological areas and soft landscaping. They have also provided a semi-quantitative assessment of the biodiversity impacts of the proposed development. The semi-quantitative assessment concludes that the proposed development will result in a loss of 37.4 units of 'low distinctiveness' habitat (grassland) and a loss of 6.21 units of 'medium distinctiveness' habitat (woodland/heathland).

7.9 SWT do not agree with the assessments and conclusions of the applicant but they do accept that off-site compensation of sufficient scale and type should be secured. In this respect, the applicant has suggested that an appropriate figure should be £187,000 for the low distinctiveness habitat and £62,317 for the medium distinctiveness habitat. Therefore, it is their opinion that a financial contribution towards off-site biodiversity enhancements would offset the impacts of the proposed development on biodiversity.

7.10 It is clear that biodiversity matters on this site are complex. In acknowledging the continued concerns expressed by SWT your officers have sought the expert advice of the County Council Ecologist. Their detailed consideration and comments have been received. They raise no objections subject to a set of conditions which seek to ensure appropriate mitigation and management of biodiversity and ecology impacts. One of the key factors in reaching this recommendation is that amelioration of the quarry slopes will be required, meaning this area will be effectively lost anyway. Therefore, on balance it is accepted that the on-site habitat retention and enhancement, together with off-site compensation payment offered are adequate

7.11 The conditions requested by the County Council Ecologist seek to protect and enhance biodiversity and include the prior approval of a Construction Environment Management Plan and a 10 year Ecology and Landscape Mitigation and Management Plan (ELMMP), which seek a range of habitat provision, management and surveys, along with additional tree/hedge planting and all boundary structures (fences) to allow the movement and dispersal of wildlife, notably hedgehogs.

7.12 Subject to suitably worded planning conditions and an appropriate financial contribution towards off-site biodiversity enhancements, the application has now demonstrated that the impact and loss of wildlife and biodiversity can be suitably mitigated, along with appropriate compensation. Therefore, it

accords with Paragraphs 174 & 180 of the NPPF. However, the impact and loss of wildlife and biodiversity, along with compensation and enhancements, need to be weighed in the planning balance.

8.0 Flood risk and sustainable drainage

8.1 The application has been accompanied by a Flood Risk Assessment, which includes a drainage strategy, (FRA). The drainage strategy incorporates a sustainable urban drainage strategy scheme (SuDS).

8.2 The FRA identifies that the majority of the site is within Flood Zone 1, being an area of low probability (of flooding), with the lower lying sections of the site being in Flood Zones 2 and 3 adjacent to the route of the Lyme Brook. Development within Flood Zone 1 is the preferable option when considered in the context of the sequential test found in the NPPF and the submitted plans demonstrate that all residential properties will be within Flood Zone 1.

8.3 The Environment Agency (EA) and Lead Local Flood Authority (LLFA) have been consulted on the application. The EA raises no objections subject to the suggested mitigation measures set out in the FRA and they therefore require a planning condition that stipulates that no built development shall be located in Flood Zone 3

8.4 The LLFA originally raised concerns with the FRA and the drainage strategy, in particular. However, following the submission of amended and additional information the concerns of the LLFA have been overcome and subject to a condition which secures a detailed surface water drainage scheme for the site, the development will be acceptable and minimise flood risk, in accordance with local and national planning policy.

9. Planning obligations and financial viability

9.1 The previous outline planning permission secured a number of planning obligations to make the development acceptable, these were;

- a contribution of phased payments towards the Newcastle (urban) Transport and Development Strategy (NTADS),
- a contribution of phased payments towards an extended bus service,
- a contribution of phased payments towards school spaces,
- affordable housing provision,
- either a contribution towards open space maintenance provision or the entering into of a management agreement to secure the long term maintenance of the public open space,
- travel plan monitoring fee,
- a financial viability review mechanism, and
- carry out earthworks to restore the land affected by former quarrying and to oblige the owner not to further implement a permission for clay extraction (as referred to above)

9.2 The obligations related to a development of 350 new dwellings and were secured following independent financial advice. However, the outline planning permission subsequently expired and the S106 Agreement therefore did not take effect.

9.3 The proposed development is now for the construction of 330 new dwellings, including open space, new vehicular access off Apedale Road, and associated infrastructure and earthworks.

9.4 The applicant identified at an early stage during pre-application enquiry discussions that the scheme could not support the likely planning policy compliant S106 obligations that would be generated by the proposed development due to the high level of abnormal costs associated with ground remediation necessary to deliver a development on the site. These costs equate to approximately £7.1 million.

9.5 Any S106 Obligations, in order to be lawful, must be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and

- Fairly and reasonably related in scale and kind to the development

9.6 The Education Authority states that the development would not justify an education contribution as there are projected to be a sufficient number of school places to mitigate the impact of the development at both primary and secondary phases of education.

9.7 Policy CSP6 of the CSS states that residential development within the urban areas will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. This application proposes 330 dwellings and 83 affordable dwellings would be required to make the development accord with policy.

9.8 The development is proposing on-site open space in the form of a number of play areas and the long term management and maintenance of these areas will need to be secured by a S106 Agreement to ensure that acceptable provision is provided for future residents and mitigate the impact of the development accordingly. A financial contribution towards the improvement and enhancement of two nearby areas of public open space at Loomer Road and Chesterton Park is also sought.

9.9 Staffordshire County Council's Rural Development Officer has commented on the application and advises that a development of 330 new dwellings in such close proximity to Apedale Community Country Park and its infrastructure, will increase visitor pressure across these areas. Therefore, a developer contribution, to help offset impacts from the proposed development, for the increased usage of the country park is suggested. They have identified possible suitable projects and costs, which include the design and installation of map and interpretation facilities at different locations around the country park to enable visitors to understand the environmental sensitivities and history of the site and guide them along designated paths. Another project identified is the Apedale Trail Improvement Project which would include enhanced wayfinding around the site to keeping new / additional visitors on designated routes, highlighting environmentally sensitive / notable locations plus other historic features of the site, and improving the path network so it can better withstand the increased footfall of the proposed development. These two projects would cost approximately £25,650.00.

9.10 A financial viability appraisal has been submitted by the applicant and independent financial advice has been sought and has now been received by the Authority. The report of Butters John Bee (BJB) confirms that two factors affect the financial viability of the scheme, these being the level of abnormal costs and the sales values, which are only marginally higher than build costs. It is therefore concluded that the scheme is not sufficiently viable to provide any on-site affordable housing but a financial contribution amount of £100,000 – £200,000 can be provided.

9.11 The independent financial advice concludes that the level of financial contribution the development can support clearly falls short of the S106 Obligations secured in the previous outline permission, as set out at paragraph 8.1. However, it has to be acknowledged that the previous permission could not be delivered and one factor is likely to have been the financial viability due to the level of work required to deliver a development with the associated abnormal costs.

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

9.13 The applicant's position is that their financial viability assessment concludes that the scheme can support a maximum of £136,280 to be allocated to financial contributions. Therefore, this figure sits within the parameters of the conclusions reached by BJB, which is less precise. Therefore, your officers accept that, without a more precise figure from BJB, the figure of £136,280 can be accepted but in the circumstances it is reasonable to round it up to £140,000.

9.14 Since the independent financial viability advice the biodiversity issues with the scheme have established that off-site mitigation is necessary and a financial contribution of £249,317 is necessary and appropriate. The applicant has agreed to pay this figure, in addition to the £140,000.

9.15 The financial contribution of £249,317 towards off-site Biodiversity improvements will need to be secured for that purpose but in terms of the preference for affordable housing and POS/ Country Park improvements the Council has no agreed formal "hierarchy of need" in its Developer Contributions SPD. The NPPF also offers no such preference.

9.16 A contribution towards the improvement of off-site public open space and/or the Country Park would seek to mitigate the impact of the development on these areas and your officer would suggest that in this case the financial contribution should be used to improve and maintain the identified POS and Country Park, instead of providing affordable housing.

9.17 As discussed, the County Council's Rural Development Officer has indicated that a financial contribution of £25,650.00 would provide improvements to the Country Park and this would then leave £114,000 towards the identified public open space improvements.

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

10. Planning balance

10.1 The proposed development of this Greenfield site would result in harm and loss of wildlife, habitats and biodiversity. It would also result in the loss of trees and other natural features, along with the impact on the landscape and the quality of on-site public open space for future residents would result in some slight harm. Increased traffic movements on the local highway network will also result in some moderate impacts and the lack of policy compliant affordable housing also weighs against the proposal.

10.2 However the proposed development does provide a number of significant benefits, most notably the construction of 330 new houses in a sustainable location within the urban area, which will increase the housing mix and make a significant contribution to boosting housing supply in the Borough. The construction of 330 houses would provide various social and economic benefits and it has also been demonstrated that the design and appearance of the scheme would be of an appropriate quality and would not harm the visual amenity of the area. Onsite biodiversity enhancements and improvements have been proposed and other environmental objectives will be secured. Therefore, the three overarching objectives of sustainable development will be achieved.

10.3 The applicant has set out a series of other associated benefits with new housing stock in the area and increased population, these include increased expenditure in Chesterton Village Centre, more availability of house stock, increased Council Tax revenue, and full time employment (FTE) jobs during the construction phase.

10.4 It has been established that the development can support a financial contribution of £140,000 and the County Council have identified projects that would seek to mitigate the impact of the development on Apedale Country Park. Whilst this is not a benefit, the financial contribution could help to provide biodiversity benefits within the Country Park also. The applicant is also offering a financial contribution of £249,317 to off-set the biodiversity impacts by way of suitable off-site biodiversity enhancements.

10.5 The proposed development is not considered to be contrary to policies of the development plan and on balance, taking in to account of all the consultation feedback that has been provided on this application, it is accepted that the benefits of the development outweigh the identified impacts. Accordingly it is considered that the proposed development complies with the requirements of paragraph 11 of the NPPF as well as the overarching aims and objectives of the NPPF. On this basis planning permission should be granted provided the required S106 obligations are secured and

obtained to address infrastructure requirements, alongside appropriate planning conditions, as recommended.

APPENDIX

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

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

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4:	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

Policy H1:	Residential development: Sustainable location and protection of the countryside
Policy T16:	Development - General Parking Requirements
Policy C4:	Open Space in New Housing Areas
Policy C21:	White Rock – Apedale Road
Policy N12:	Development and the Protection of Trees
Policy N13:	Felling and Pruning of Trees
Policy N17:	Landscape Character – general Considerations
Policy N22:	Area of Landscape Regeneration
Policy B3:	Other Archaeological Sites
Policy IM1:	Provision of essential supporting infrastructure and community facilities.

Other material considerations include:

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

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

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

Supplementary Planning Guidance/Documents

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

[Affordable Housing SPD](#) (2009)

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

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

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

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

Relevant Planning History

Outline planning permission, reference 13/00525/OUT for a 'Residential development of up to 350 dwellings including open space, new vehicular accesses, infrastructure, ancillary development and associated earthworks', was approved in December 2014 but no subsequent reserved matters application was submitted and as a consequence, the permission lapsed.

Views of Consultees

The **Education Authority** advises that there are projected to be a sufficient number of school places both in the catchment area and/or wider cluster areas to mitigate the impact of this development at both primary and secondary phases of education. Therefore, an education contribution is not being sought and the proposed development is acceptable from an education perspective.

Staffordshire County Council's Historic Environment Team advises that previous archaeological works within the application site, which have included geophysical survey and archaeological trial trenching, have provided evidence to suggest that remains survive within specific areas of the site which are likely to relate to 1st to 2nd Century Roman domestic activity contemporary with the nearby Chesterton Roman fort.

The application is supported by an Archaeological Desk Based Assessment (ADBA) that provides a useful understanding of the developmental history of the site, previous archaeological works within the site, and the potential archaeological impact of the proposals. Therefore no objections are raised, subject to a pre commencement condition that secures the submission and approval of a written scheme of archaeological investigation.

Staffordshire County Council's Rural Development Officer advises that there are concerns that the development of 330 new dwellings in such close proximity to Apedale Community Country Park and its infrastructure, which includes impacts on the path network (containing a number of Public Rights of Way), as well as on areas of ecological sensitivity, will increase visitor pressure across these area. Therefore, a developer contribution, to help offset impacts from the proposed development, to mitigate for this increased usage of the country park is suggested.

Natural England advises that they have no comments to make on the application but their Standing Advice applies.

The Council's **Waste Management Section** has highlighted a number of issues with the layout of the scheme and how this would affect waste collection and storage arrangements.

The **County Highway Authority** initially recommended the application for refusal due to insufficient information but following the submission of amended and additional information and plans they now raise no objections subject to conditions which secure the following;

- Provision of access, internal roads, private drives, and parking areas,
- Surfacing materials and surface water drainage of private drives, and parking areas,
- The provision of a footway on the southern side of Apedale Road from the site access to the junction of Audley Road / Castle Street,
- Secure weatherproof cycle parking for plots without a garage,
- Garages retained for vehicle parking,
- Residential Travel Plan Framework, and
- Construction Management Plan (CMP).

A travel plan monitoring fee of £7,000 is requested and secured via a S106 Agreement.

The **Lead Local Flood Authority** raises no objections following the submission of additional information. However, they request a condition which requires a detailed surface water drainage scheme to be submitted for approval prior to any development commencing on site.

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

Staffordshire County Council as the **Minerals and Waste Authority** advises that the site is a former clay quarry, which has not been worked in recent times, and has naturally revegetated to provide grazing land. They advise that the site falls almost entirely within the Mineral Safeguarding Area (MSA) for Brick Clay, as defined in the Minerals Local Plan for Staffordshire (2015 – 2030). In addition, the major part of the application site is subject to a planning permission granted in 1949 for the working of clay, and deposit of waste materials.

There are no objections to the application on the basis that the proposed development will not lead to the permanent sterilisation of significant mineral reserves. It is recommended that appropriate works are incorporated into the development to ensure the satisfactory restoration of the whole site and the safeguarding of protected species and enhancement of their habitats as well as an agreement secured that there is no further implementation of the mineral permission. The County Council will also need to pursue a separate application for Prohibition Order to prohibit the resumption of mineral working.

The **Environment Agency** raises no objections to the proposed development on the basis of the revised Flood Risk Assessment but they recommend a condition that the development is carried out in accordance with the revised FRA and no built development shall be carried out in Flood Zone 3.

The **Environmental Health Division** have responded in respect of contaminated land matters only and raise no objections subject to conditions which secure appropriate mitigation and remediation measures.

The **Landscape Development Section (LDS)** continue to raise concerns with the visual impacts of the proposed development and the level of open space, including play provision within the site. Concerns have also been expressed about the level of tree loss, in particular category B trees.

Following the submission of amended details there are still concerns about the level and type of provision, along with the location of the provision within the development. They also request that a financial contribution to a NEAP' should go to the nearby Multi Use Games Area Loomer Road and Chesterton Park for resurfacing works, line painting and replacement fencing panels.

The **Crime Prevention Design Advisor** advises that the proposed development has some notable positive proposed layout elements that should substantially reduce opportunities for crime and anti-social behaviour. A number of other crime prevention design measures are also advised, including lighting, contained within the Secured by Design Homes 2019 design guide document.

Staffordshire Wildlife Trust have submitted a series of strong objections to the application following information submitted by the applicant. SWT advise that the proposal is unacceptable in terms of biodiversity policy and good practice. In particular they make the following key points;

- The Biodiversity Impact Assessment concludes that a net loss of 46.31 habitat units, or a 56.19% loss, would occur under the current proposals. This is a very significant deficit that cannot be mitigated within the site;
- The assessment has undervalued the habitats within the former quarry, much of which are of high, not medium, distinctiveness. The predicted units of loss are higher than calculated;
- It is against best practice for biodiversity net gain to lose priority habitats or part of a candidate Local Wildlife Site to offset this elsewhere. The mitigation hierarchy has not been adequately followed;
- The monetary contribution offered by Knights plc to provide compensatory habitat elsewhere is inadequate and based on inappropriate prices per unit. The contribution would not provide a net gain, and there is no evidence to show that all administrative, legal and practical costs for identifying, agreeing, surveying, enhancing and managing a suitable offset site for 30 years would be covered;
- No suitable offsetting site has been identified and there is no certainty that the distinctive habitats to be lost could be recreated elsewhere;
- Destruction of this site could set a precedent that in Newcastle Borough, any high value sites may be lost for a sum of money- this is not how BNG should be used; and
- Unless the proposals can be amended to retain and maintain the former quarry area in its entirety, the application should be refused.

A smaller development, avoiding priority habitats, and balancing impacts appropriately, could be acceptable from an ecology standpoint.

The **Staffordshire County Council Ecologist (SCCE)** advises that on the basis that the amelioration of the quarry slopes will be required, meaning this area will be effectively lost anyway, the on-site habitat retention and enhancement, together with the off-site compensation payment offered, are adequate but measures to protect and enhance biodiversity should be secured through conditions. In particular, the

SCCE acknowledges that there have been several objections from Staffordshire Wildlife Trust to the proposal which has resulted in various rebuttals to the objections raised from the applicant's ecology consultants. The SCCE has responded to specific points and made recommendations and conditions, these are;

- Prior to commencement of any site works, submission of a Construction Environment Management Plan for approval that details all measures to be taken to protect species and habitats on- and off- site.
- Prior to commencement of any site works, an Ecology and Landscape Mitigation and Management Plan to be submitted for approval.
- Removal of vegetation shall be undertaken outside of bird nesting season (1st March to end August.) If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present, then the vegetation or buildings shall not be removed until the fledglings have left the nest.
- Submission of boundary fence details for gardens that include gaps of minimum 130mm square at ground level at least every 10m running length or that do not seal to the ground at all between posts with a 120mm gap from fence base to ground
- Prior to occupation, a lighting design strategy for biodiversity for all public areas, plus external spaces of properties to the west of the site shall be submitted to and approved in writing by the local planning authority. The strategy shall:
 - a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.
- All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.
- Prior to the commencement of the development, details of biodiversity enhancement measures including 30 number integrated bat tubes or bat boxes within the new buildings shall be submitted to and approved in writing by the local planning authority. The approved measures shall be incorporated into the scheme and be fully constructed prior to occupation of the buildings and retained as such thereafter.
- Prior to the commencement of the development, details of the type and location of biodiversity enhancement measures including 5 groups of 3 number swift bricks and 10 number house sparrow terraces on or integrated into north- or east- facing brickwork of the new buildings shall be submitted to and approved in writing by the local planning authority. The approved measures shall be incorporated into the scheme and be fully constructed prior to occupation of the buildings and retained as such thereafter.
- Revision of landscape plans to:
 - a) Exclude Ribes sanguineum
 - b) Include tree/ hedge replacement / gapping up on east and south boundaries
- Prior to seeding of habitat creation areas, submission of soil test results for approval.
- Prior to commencement of any site works, submission of a pre-commencement badger survey.

Comments were also invited from the **Councils Housing Strategy Section, Economic Regeneration, Planning Policy, United Utilities and the Greater Chesterton Locality Action Partnership (LAP)** 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

Twenty Two (22) letters of representation have been received raising objections on the following grounds;

- Apedale Road is too narrow and cannot support an additional 330 houses - it will exacerbate existing highway safety issues, in particular on street car parking and congestion,
- Apedale Road is restricted to a maximum 7.5t vehicle,
- Traffic monitoring is not accurate because it was carried out during 'lockdown',
- An additional access onto Palatine Drive should be considered,
- Apedale Road, Audley Road Victoria Street is already a busy junction,
- Increased danger from speeding cars,
- Parts of Apedale are privately owned,
- Chesterton does not have sufficient infrastructure for the proposed development, in particular schools and doctors,
- Negative impact and loss of wildlife, including protected species
- The visual impact of the development will be negative,
- The proposals do not restore the character or improve the quality of the landscape, as required by Policy N21,
- Loss of privacy to existing properties,
- Loss of views,
- The site floods and is a flood risk,
- Other brownfield sites are more suitable for development,
- Lack of publicity,
- Devaluation of property prices,
- Noise and pollution during construction,
- Air pollution poses a real risk to the health of existing residents,
- Loss of greenspace and grazing land,
- Ground instability from coal mining activities,
- There is no need for more housing in Chesterton,

Applicant/agent's submission

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

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00655/FUL>

Background Papers

Planning File

Development Plan

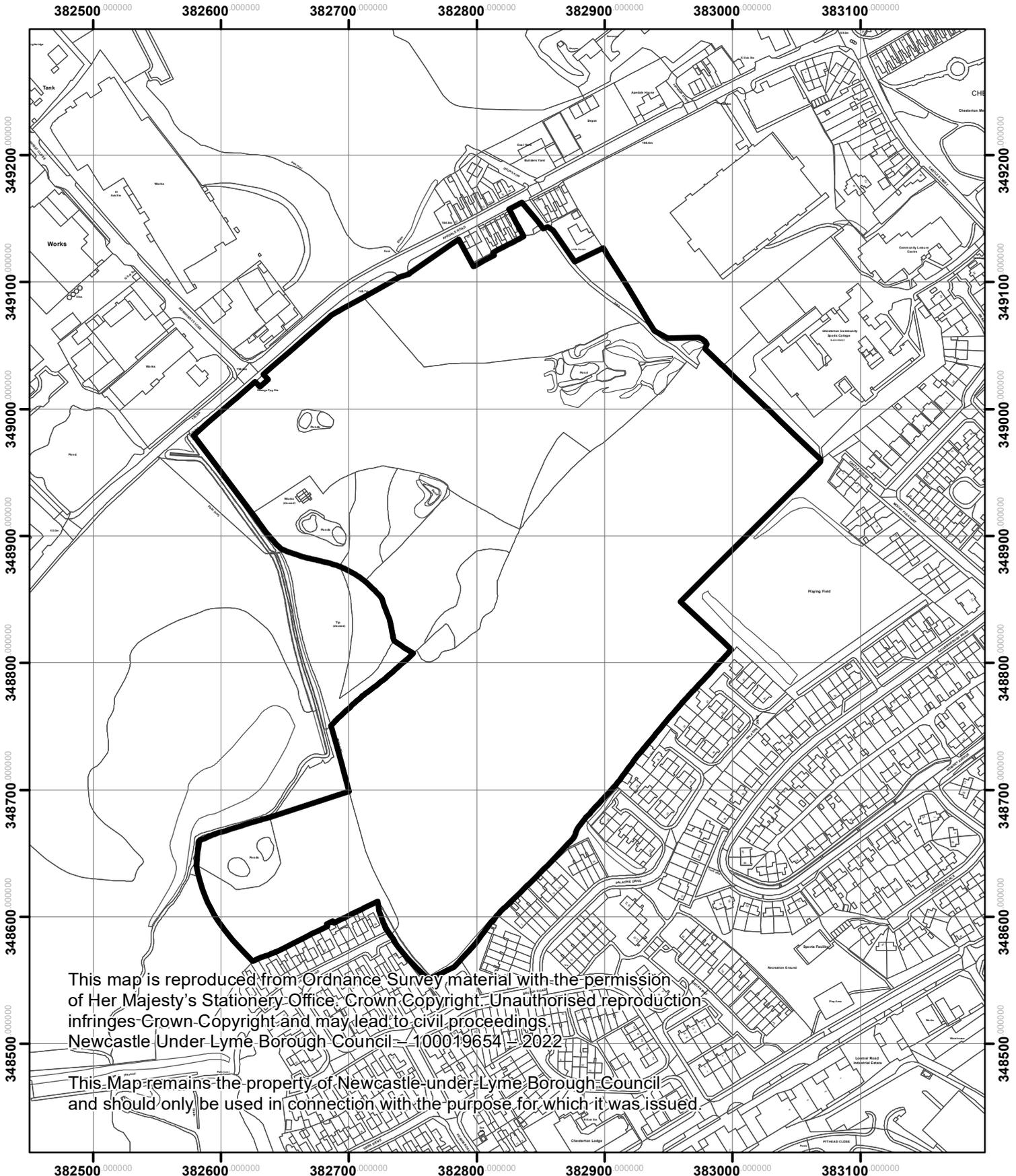
Date report prepared

11th May 2022

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21/00655/FUL

Land Between Apedale Road And Palatine Drive, Chesterton



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FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th May 2022

Agenda Item 4

Application Ref. 21/00655/FUL

Land between Apedale Road and Palatine Drive, Chesterton

Since the publication of the main agenda report the applicant has submitted amended plans and additional information to show revised public open space provision for the site following concerns raised by the Landscape Development Section (LDS).

LDS have advised that they now raise no objections to the principle of the additional provision and equipment for play and outdoor space. They suggest that the final positioning, layout and design for the onsite open space provision be confirmed and approved by way of an appropriate planning condition.

An additional letter of objection has been received raising concerns of increased traffic impact, noise and disturbance and impact on wildlife.

Officer response

The matters raised by the additional objection have already been set out and considered in the main agenda report and no further observations on these points are made,

The amended plans show an improved provision for open space throughout the site and the Landscape Development Section are now content with the principle of the level, quality and locations of the onsite provision that is now proposed, subject to the final details being secured by condition.

The main agenda report sets out that the quality of on-site public open space for future residents would result in some slight harm in the planning balance. However, the improved provision of onsite open space is now supported by your officers and any previous harm identified has now been overcome.

The RECOMMENDATION remains as set out in the main agenda report.

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SECOND SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th May 2022

Agenda Item 4

Application Ref. 21/00655/FUL

Land between Apedale Road and Palatine Drive, Chesterton

A further representation on the planning application has been received highlighting that a known Roman Fort is located adjacent to the neighbouring high school.

This issue has been addressed within the main agenda report at paragraph 1.5 and the consultation comments of the Staffordshire County Council's Historic Environment Team have been received raising no objections to the planning application, subject to a pre commencement condition that secures the submission, approval and implementation of a written scheme of archaeological investigation.

The RECOMMENDATION remains as set out in the main agenda report.

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UNIT E, DALEWOOD ROAD, NEWCASTLE UNDER LYME
BESTWAY NORTHERN LIMITED

22/00092/FUL & 22/00183/FUL

Planning application 22/00183/FUL seeks full planning permission for the reconfiguration of the external areas of the site, including a new car parking area, conversion of existing customer car park to goods out delivery yard; creation of on-site vehicle route (connecting delivery yards); and erection of a retaining wall.

Planning application 22/00092/FUL seeks the removal of condition 2 of planning permission 00/00566/FUL which restricted the use of an access to the industrial unit for light vehicles only and not for use by HGV's.

The application site is occupied by an existing industrial unit (Use Class B8 wholesale trade warehouse) and lies in the urban area on Lymedale Business Park, as indicated on the Local Development Framework Proposals Map.

The application site extends to approximately 2.57 hectares in size.

The original statutory period for the determination of these applications has expired. Agreement to extend the determination dates of these applications is being sought.

RECOMMENDATIONS

22/00183/FUL

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

1. Time limit condition,
2. Approved Plans,
3. Provision of access, car parking and cycle parking areas,
4. Soft landscaping scheme, including tree replacement, and
5. Tree protection measures.

22/00092/FUL

Permit the removal of condition 2 of planning permission 00/00566/FUL, subject to the following condition;

“Access 6 shall not be used by HGV's until the works granted under planning permission 22/00183/FUL have been fully implemented in accordance with the approved plans.

Reason: In the interest of highway safety, in accordance with the requirements of the National Planning Policy Framework 2021.”

and subject to the imposition of all other conditions attached to planning permission 00/00566/FUL that remain relevant at this time, amended as necessary.

Reason for Recommendations

The applications and proposed reconfiguration of the external areas of the site and a goods in and a goods out access arrangement with an internal route through the site for delivery vehicles, including HGV's, would allow the existing business to adapt and modernise. Subject to conditions and works being fully implemented in accordance with the submitted plans, the proposed development would not raise any significant highway safety concerns and represents a sustainable form of development in accordance with the guidance and requirements of the NPPF.

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

Planning application 22/00092/FUL seeks the removal of condition 2 of planning permission 00/00566/FUL which restricted the use of an access to the industrial unit for light vehicles only and not for use by HGV's.

Planning application 22/00183/FUL seeks full planning permission for the reconfiguration of the external areas of the site, including a new car parking area, conversion of existing customer car park to goods out delivery yard; creation of on-site vehicle route (connecting delivery yards); and erection of a retaining wall.

The application site is occupied by an existing industrial unit (Use Class B8 wholesale trade warehouse) and lies in the urban area on Lymedale Business Park, as indicated on the Local Development Framework Proposals Map.

The removal of condition 2 of 00/00566/FUL and the proposed reconfiguration of the external areas of the site would allow the existing wholesale trade business to operate differently and there would be less customers visiting the premises with more delivery/ distribution movements.

As discussed, the site is set within Lymedale Business Park and the use of the building would not change. Therefore, the principle of the development does not need to be considered. The external works are primarily towards the rear of the building and subject to a soft landscaping scheme and tree protection measures, as advised by the Landscape Development Section, the proposed works would not affect the visual amenity of the area. Therefore, the only key issue in the determination of both applications is the impact on highway safety.

Application 22/00183/FUL

This application seeks full planning permission for the reconfiguration of the external areas of the site, including a new car parking area, conversion of existing customer car park to goods out delivery yard; creation of on-site vehicle route (connecting delivery yards); and erection of a retaining wall.

The application sets out that the changes will allow a goods in and a goods out access arrangement with an internal route through the site for delivery vehicles, including HGV's.

There will no longer be a need for customer car parking but a greater level of staff car parking will be required.

The existing car parking arrangements provides 102 spaces and the proposed changes would increase this to 105 car parking spaces, which includes 7 disabled car parking bays. The proposals also include a cycle parking area for 16 cycles.

Saved Policy T16 of the NLP sets out that for a building of this size a maximum of 100 car parking spaces is required.

The application is supported by a Transport Statement which concludes that the proposed development provides satisfactory arrangements for delivery vehicles to stand, manoeuvre, load and unload within the site and leave the site forwards. It also concludes that the proposed car parking provision is in accordance with policy T16 of the NLP.

The Highways Authority (HA) has raised no objections to the application, subject to a condition that secures the access, car parking and cycle parking areas.

The site is within a sustainable urban area and whilst a greater level of parking provision is being proposed than the maximum specified levels it is accepted that no fundamental objection can be raised and the provision of cycle parking would encourage non-car modes of travel to the site.

The proposed development accords with the guidance and requirements of the NPPF.

Application 22/00092/FUL

This application seeks the removal of condition 2 of 00/00566/FUL which was a variation of condition 10 of the original planning permission for the erection of an industrial unit for Class B1 B2 and B8 uses, reference 00/00128/FUL.

Condition 10 of 00/00128/FUL required visibility splays of 4.5m x 70m in both directions at both accesses onto Dalewood Road. The reason for the condition being 'to protect the safety and convenience of users of the highway.

Planning application 00/00566/FUL permitted the variation of condition 10 but conditions 1 and 2 were imposed. These stated that;

Condition 1 – The variation to the visibility splay shall relate to the eastern side of access 6 only.

Condition 2 - The access shall be used for light vehicles only and not for use by HGV's.

The reasons for both conditions within the decision notice were:

To protect the safety and convenience of users of the highway.

The application now seeks the removal of condition 2 which would allow the two site accesses to operate differently, with HGV using both, so that the reconfiguration of the external areas of the site can be implemented to provide a goods in and a goods out access arrangement. As set out above, these works have been submitted under planning application reference, 22/00183/FUL.

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

The Highways Authority (HA) has advised that the application should be refused because the application fails to provide details of how HGV's will use the 'goods-out' yard. However, full details have been provided under application reference 22/00183/FUL and the HA have no objection to such details.

In deciding an application under section 73 the local planning authority must only consider the condition/s that are the subject of the application, it is not a complete re-consideration of the application.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

It is clear that condition 2 of 00/00566/FUL would prevent the proposed goods in and goods out access arrangements as now proposed because HGV's are currently prevented from using access 6. Therefore, in order for the works proposed under 22/00183/FUL to be implemented the condition would need to be removed or modified and whilst HA have objected to the removal of condition 2 of 00/00566/FUL, they have not objected to 22/00183/FUL. Therefore, it is considered that a suitably

worded condition can be secured which ensures that the condition is only removed once the works, if granted planning permission under 22/00183/FUL, are implemented.

On this basis, the condition can be removed but a new condition requiring the works under 22/00183/FUL being implemented and any conditions of the original permission that are still necessary, are still required.

Overall, it is considered that the proposed amendment is acceptable and in accordance with development plan policies and the requirements of the NPPF.

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

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

Policy T16: Development – General Parking Requirements
Policy T18: Development – Servicing Requirements

Other Material Considerations include:

National Planning Policy

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

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

Relevant Planning History

00/00128/FUL Erection of an industrial unit for Class B1 B2 and B8 uses Permitted

00/00566/FUL Variation of condition 10 of planning permission 00/128/FUL which relates to providing visibility splay to access Permitted

Views of Consultees

22/00183/FUL

The **Highway Authority** raises no objections subject to condition which secures access, car parking and cycle parking areas.

The **Landscape Development Section** raises no objections subject to conditions which secure tree protection measures and landscaping proposals.

The **Coal Authority** raises no objections on the basis that the part of the site where the development is proposed lies outside of the defined High Risk Area and a Coal Mining Risk Assessment is not necessary. However, they do request an informative note on the decision notice highlighting that there are coal mining activity has taken place in the area.

22/00092/FUL

The **Highway Authority** advises that the application should be refused on the basis that the application fails to provide details of how HGV's will use the 'goods-out' yard.

Representations

None received.

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/22/00092/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/22/00183/FUL>

Background papers

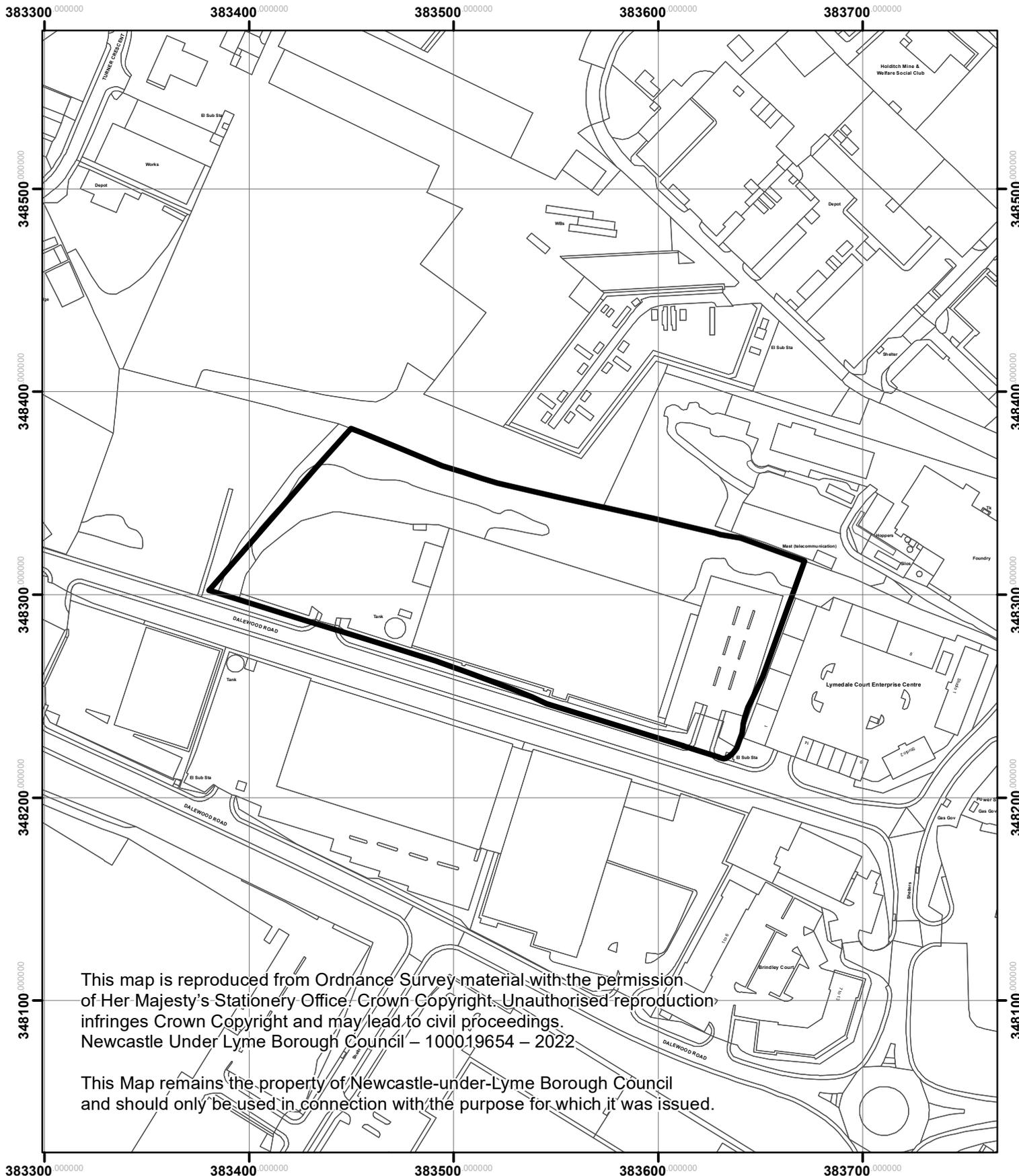
Planning files referred to

Planning Documents referred to

Date report prepared

12th May 2022

22/00092/FUL
Unit E Dalewood Road
Lymedale □□



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FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
26th May 2022

Agenda Item 5

Application Ref. 22/00092/FUL & 22/00183/FUL

Unit E, Dalewood Road, Newcastle under Lyme

The applicant has sought to confirm that the recommended condition for application 22/00092/FUL does not exclude HGV's using access 6 during the construction phases necessary to carry out the works proposed under planning application 22/00183/FUL.

Officer response

The applicants point is noted and the recommended condition, as set out in the main agenda report, can be amended for the avoidance of doubt.

Recommendation amended as follows;

Permit the removal of condition 2 of planning permission 00/00566/FUL, subject to the following condition;

“Access 6 shall not be used by HGV's, other than for the purposes of constructions works, until the works granted under planning permission 22/00183/FUL have been fully implemented in accordance with the approved plans.

Reason: In the interest of highway safety, in accordance with the requirements of the National Planning Policy Framework 2021.”

and subject to the imposition of all other conditions attached to planning permission 00/00566/FUL that remain relevant at this time, amended as necessary.

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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 purpose of this report is to provide Members with an update, in accordance with the resolution of Planning Committee at its meeting of 1st February 2022, of the progress in relation to the pursuance of breaches of planning obligation secured through planning permission reference 11/00284/FUL for the erection of twenty three houses at the Former Site of Silverdale Station and Goods Shed, Station Road, Silverdale.

RECOMMENDATION

That the information be received.

It has previously been reported that there is a breach of the planning obligation entered into in association with planning permission 11/00284/FUL as the following financial contributions have not been paid on or before commencement of development as required:

- £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)

As this case may proceed further, officers are mindful of the need for the Council to protect its position should the case proceed to Court. Accordingly, precise details of what action may be taken are not provided at this time. Officers will provide an update at the meeting with regard to how the Council's case has been advanced if appropriate.

Date report prepared: 12th May 2022

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APPEAL BY MRS SOPHIE THORLEY AGAINST AN ENFORCEMENT NOTICE ISSUED ON LAND AT HAZELEY PADDOCKS, KEELE ROAD, KEELE

Enforcement Notice issued 19 May 2021

Appeal Decision Dismissed subject to a variation of the enforcement notice

Costs Decision Refused

Date of Decisions 14 April 2022

Appeal Decision

The enforcement notice as served required the removal of a pergola and concrete plinth/hardstanding and all material used in the construction from the land within 6 months from the date that the notice takes effect.

Ground (c) – that the matters alleged in the notice do not constitute a breach of planning control

The Inspector did not accept the appellant's argument that pergola/chicken run was not a building and didn't constitute operational development. In addition the Inspector didn't accept that the structure and the concrete plinth were permitted development given that they aren't sited within the curtilage of the dwelling, and in any event permitted development rights have been removed by condition. Finally it was not accepted that the structure was approved as part of the approved landscaping scheme.

The Inspector concluded that the pergola and concrete plinth are development and that a breach of planning control has occurred. The appeal on ground (c) therefore failed.

Ground (a) – deemed planning permission should be given.

The Inspector identified the following main issues:

- Whether the development is inappropriate development in the Green Belt;
- The effect on the openness and purposes of the Green Belt; and
- Is the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Inappropriate development in the Green Belt

Having found that the pergola, initially constructed as a car port then more recently altered to house chickens, is a building the Inspector noted that it did not fall within any of the listed exceptions within paragraph 149 of the National Planning Policy Framework (the Framework) and concluded that it is inappropriate development in the Green Belt.

In accordance with paragraph 150 of the Framework, as the concrete plinth is an engineering operation the Inspector noted that it may not be inappropriate in the Green Belt provided it preserves its openness and does not conflict with the purposes of including land.

Openness and purposes

The Inspector considered that the use of the concrete plinth for storage results in the loss of openness of the Green Belt, the impact of which is moderate. Furthermore, its location conflicts with one of the purposes of the Green Belt, to assist in the safeguarding the countryside from encroachment. The Inspector therefore considered the concrete plinth to be inappropriate in the Green Belt.

The Inspector considered that the pergola/chicken run also has a moderate impact on the openness of the Green Belt.

The Inspector concluded that the unauthorised developments are inappropriate development and cause harm to the openness of the Green Belt contrary to policy.

Green Belt Balance

The Inspector considered that very special circumstances do not exist to justify the development.

Ground (f) – the requirements are excessive to achieve the purposes of the notice.

The Inspector accepted that the pergola could be modified to accord with what was approved as part of the landscaping details and as such considered it excessive to require the whole structure to be demolished. The Inspector amended the requirements as set out in the notice to require only the removal of fencing/gates and netting that are attached to the structure and not the structure in its entirety. The appeal on ground (f) therefore succeeded in so far as it relates to the pergola/chicken run.

The Inspector did not accept that there were lesser steps that would achieve the statutory purposes behind the notice in as far as the concrete plinth is concerned and concluded that the appeal on ground (f) failed in this regard.

Ground (g) – whether the compliance period is reasonable

The Inspector considered that six months was a reasonable compliance period and as such concluded that the appeal on ground (g) failed.

Costs Decision

The Inspector noted from the evidence provided the Council clearly investigated the matters alleged in the enforcement notice, took a decision not to approve the unauthorised works and to serve an enforcement notice to removed and rectify the breaches of control. No substantive evidence was provided that the Council behaved unreasonably in relation to procedure matters at the appeal.

The enforcement notice clearly set out the Council's reasons for issuing the noticed and the Council supported those reasons with a statement of case that addressed all of the appellants' grounds of appeal.

The Inspector found that unreasonable behaviour resulting in unnecessary expense had not been demonstrated.

Recommendation

That the appeal and costs decision be noted.

Planning Committee site visit dates for 2022/23

It has been the practice of the Committee to annually agree a programme of dates upon which Planning Committee site visits will be held, should such visits be agreed to be necessary at a meeting of the Committee.

The likely dates of Planning Committee meetings, to which Development Management items are likely to be brought, are known. It is recommended that the Committee should now agree to a programme of dates upon which the Planning Committee visits will be held during the 2022/23 municipal year. Members are reminded that the policy of the Committee is that in the event of a site visit being held, only members who have attended the site visit may then take part in the discussion and determination of the application which has been the subject of the site visit.

Date of Planning Committee at which decision to hold a site visit is made	Date of site visit	Time of site visit
Thursday 26 May 2022	Thursday 16 June 2022	6.15pm
Tuesday 21 June 2022	Thursday 14 July 2022	6.15pm
Tuesday 19 July 2022	Thursday 11 August 2022	6.15pm
Tuesday 16 August 2022	Thursday 8 September 2022	6.15pm
Tuesday 13 September 2022	Saturday 8 October 2022	9.15am
Tuesday 11 October 2022	Saturday 5 November 2022	9.15am
Tuesday 8 November 2022	Saturday 3 December 2022	9.15am
Tuesday 6 December 2022	Saturday 17 December 2022	9.15am
Thursday 5 January 2023	Saturday 28 January 2023	9.15am
Tuesday 31 January 2023	Saturday 24 February 2023	9.15am
Tuesday 28 February 2023	Saturday 25 March 2023	9.15am
Tuesday 28 March 2023	Thursday 20 April 2023	6.15pm
Tuesday 25 April 2023	Thursday 18 May 2023	6.15pm

If any additional meetings of the Planning Committee, to which Development Management items are brought, being held, it will be necessary in the event of the meeting agreeing to defer an item for a site visit, to also agree at that meeting an appropriate date and time for that site visit

Recommendation

That the above list of dates and times for possible Planning Committee site visits for 2022/23 be agreed

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LAND OFF ECCLESHALL ROAD, LOGGERHEADS
ASPIRE HOUSING

21/01099/DOB

Outline planning permission for residential development of up to 55 dwellings including provision of affordable housing was granted in 2018 following the completion of an agreement under Section 106 securing various planning obligations (Ref. 16/00866/DEEM4).

The applicant, Aspire Housing, is to purchase the shared ownership units on the site and is seeking variations to the Section 106 agreement.

The 8 week determination period for this application expired on 2nd May 2022.

RECOMMENDATION

That the application to modify the S106 agreement to allow staircasing to 100% of the market value and to remove the requirement for the shared ownership units to remain as affordable housing in perpetuity 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 21st March 2018 prior to the grant of outline planning permission (16/00866/DEEM4) for residential development of up to 55 dwellings.

The Applicant, Aspire Housing, is to purchase the shared ownership units on the site and wishes to vary the shared ownership staircasing restriction from 90% to 100% and to remove the requirement for the shared ownership units to remain as affordable housing in perpetuity.

With respect to the shared ownership units on the development, the Section 106 agreement refers to qualifying persons purchasing initially up to 50% of the equity of the dwelling and to paying proportional rent, with the option of staircasing (increasing their equity share) but only up to 90% of the market value. The Section 106 also requires the shared ownership units to remain as affordable housing in perpetuity by controlling their future use and occupation so as to require that they are managed by a Registered Social Landlord.

Aspire Housing consider that these restrictions will impact on the ability for its customers to purchase shared ownership units.

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

permitted to 100% and the requirement for the shared ownership units to remain as affordable housing in perpetuity to be deleted.

In conclusion, it is considered that whilst the obligation continues to serve a useful purpose, that purpose would be served equally well if modified as requested.

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

16/00866/DEEM4 Residential development for up to 55 homes, with associated landscaping and infrastructure – Approved

20/00158/REM Reserved Matters application (appearance, landscaping, layout and scale) for residential development of 44 bungalows – Approved

20/00159/FUL Variation of condition 6 (hours of construction) of planning permission 16/00866/DEEM4 for residential development for up to 55 homes, with associated landscaping and infrastructure – Approved

Views of Consultees

No comments have been received from **Loggerheads Parish Council** within the consultation period and therefore it must be assumed that they have no comments to make.

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/21/01099/DOB>

Background Papers

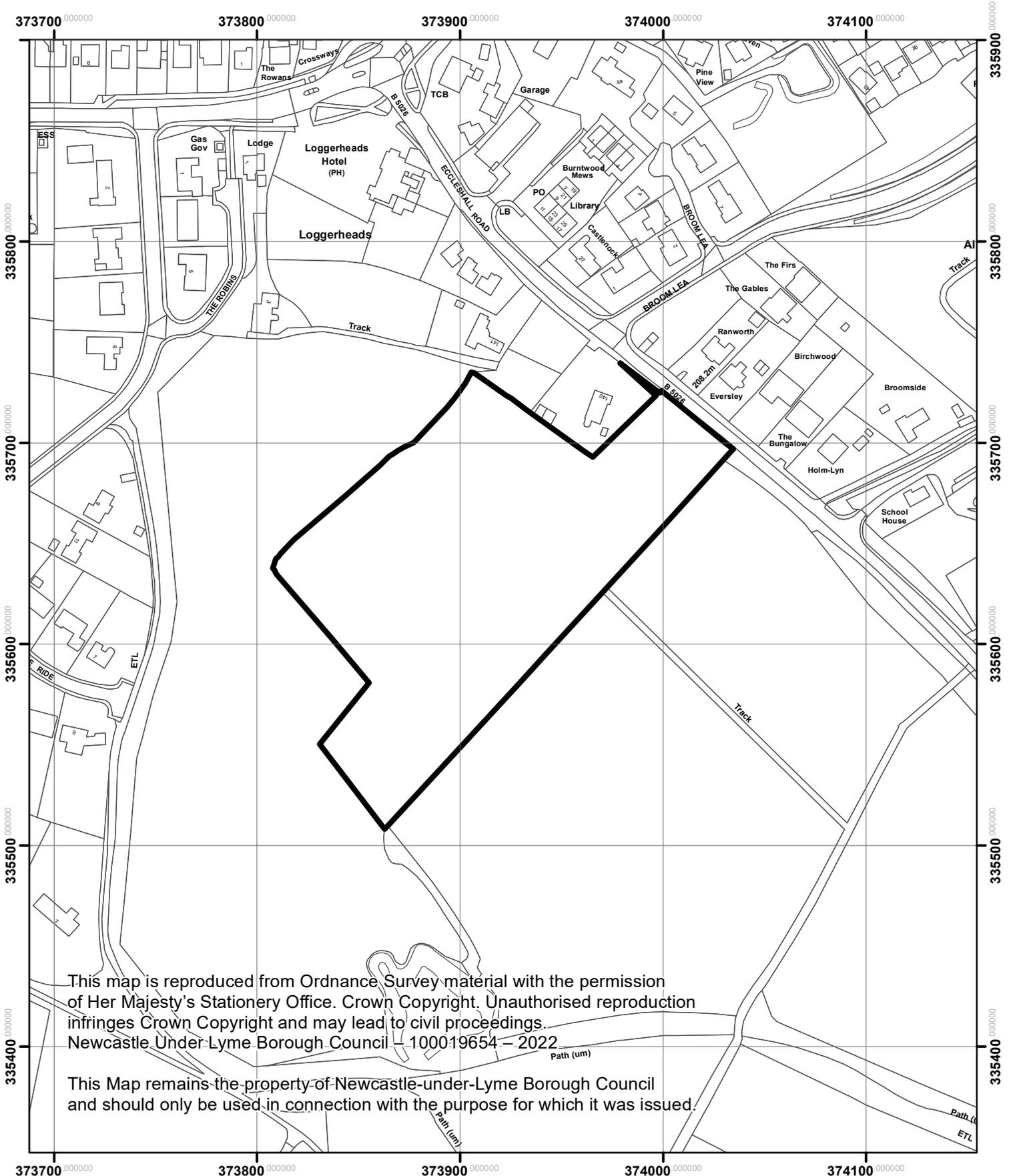
Planning File.
Planning Documents referred to.

Date Report Prepared

9th May 2022

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Land Off Eccleshall Road Loggerheads



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REPORT TO PLANNING COMMITTEE

ANNUAL DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2021/2022

Purpose of the report

To provide members with an end of year report on the performance recorded for Development Management between 1st April 2021 and 31st March 2022. Figures for 2019/20 and 2020/21 are also provided for comparison as are targets set within the relevant Planning Service Plan.

Recommendations

(a) That the report be received.

(b) That the Head of Planning and Development Manager seeks to maintain and improve performance of the Development Management team (including the technical support team) to meet the targets.

(c) That the 'Mid-Year Development Management Performance Report 2022/23 be submitted to Committee reporting on performance achieved for the first half the complete year 2022/23.

Reasons for recommendations

To ensure that appropriate monitoring and performance management procedures are in place and that the Council continues with its focus on improving performance, facilitating development and providing good customer service to all who use the Planning Service.

1. Background:

This report is produced by the Head of Planning and Development Management Business Manager in consultation with the Portfolio Holder for Strategic Planning. An extensive set of indicators is collected to monitor the performance of the Development Management service. These indicators have changed over time and officers have sought to ensure that the right things are being measured to enable us to improve performance in every significant area.

The range of indicators included reflects the objective of providing a fast and efficient development management service including dealing with pre-application enquiries, breaches of planning control, considering applications, and approving subsequent details and delivering development.

2. Matters for consideration:

There is an Appendix attached to this report:-

APPENDIX 1: PERFORMANCE INDICATORS FOR DEVELOPMENT MANAGEMENT 2019/20, 2020/21 and 2021/22: Contains quarterly and annual figures for the Performance Indicators applicable during 2020/21 (comparative figures for 2019/20 and 2021/22 are also shown).

This report is a commentary on the local performance indicators that the Council has as set out in detail in Appendix 1. It follows on from a report that was considered by the Planning Committee at its meeting on the 1st March 2022 which reported on the mid-year performance figures and gave predictions on whether the targets for 2021/22 would be likely to be achieved.

The Council's Cabinet receives a Quarterly Financial and Performance Management report on a series of performance indicators including those which relate to whether Major and Non-Major planning applications are being determined "in time", and any indicators failing to meet the set targets are reported by exception.

3. The performance achieved:

National Performance Indicators

The Government has a system of designation of poorly performing planning authorities – two of the four current criteria for designation under ‘Special Measures’ are thresholds relating to the speed of determination of Major and Non-major applications, performance below which designation is likely. Designation as a poorly performing Local Planning Authority would have significant and adverse consequences for the Council.

The assessment period for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation.

The threshold for designation as an underperforming authority at the end of that reporting period for ‘Major’ applications is where the Council has failed to determine a minimum of 60% of its applications within a 13 week period or such longer period of time as might have been agreed with the applicant.

For ‘Non-major’ applications (All ‘Minor’ applications plus ‘Changes of use’ and ‘Householder’ applications) the threshold is where the Council has failed to determine a minimum of 70% of its applications within an 8 week period or such longer period of time as might have been agreed with the applicant.

The other designation criteria measure the quality of decision making as demonstrated by appeal performance (again for Majors and Non-Majors). The measure to be used is the percentage of the total number of decisions made by the authority on applications that are then subsequently overturned at appeal, once nine months have elapsed following the end of the assessment period.

The nine months specified in the measure enables appeals to pass through the system and be decided for the majority of decisions on planning applications made during the assessment period.

The threshold for designation with regard to both ‘Major’ and ‘Non-major’ in terms of quality of decisions is where 10% or more of the authority’s decisions are allowed at appeal. Therefore, in this instance the upper limit is 10%.

The Council’s performance with regard to the 4 national indicators are as follows:

	Designation threshold	Performance To date
Speed of major development applications	Less than 60%	100%*
Speed of non-major development applications	Less than 70%	98.8%*
Quality of major development applications	Over 10%	6.3%**
Quality of non-major development applications	Over 10%	0.8%***

The figures provided are based upon the rolling total for the two year assessment period drawn from the Ministry of Communities, Housing and Local Government’s (MCHLG) nationally published ‘Live Planning Tables’ for the following two year assessment periods:

* January 2020 – December 2021 (Table 151a for major development and 153 for non-major)

** October 2018 – September 2020 (Table 152a)

*** July 2018 – June 2020 (Table 154)

As can be seen above, the Council is clearly well above the threshold for designation in terms of 'speed of decisions' for both 'Major' and 'Non-major' applications and well below the upper threshold in respect of 'Quality of Decision' for non-major development applications.

Whilst still below the upper threshold, performance has declined in respect of 'Quality of Decision' for major development applications compared to 2020/21 which was 3.4%. There were 3 out of 5 decisions overturned at appeal out of a total 48 decisions issued on major development application during the assessment period. A table of the major development appeals within the assessment period is attached at Appendix 2 for information.

The MHCLG 'Live Planning Tables' show how improved performance over a sustained period has affected the Council's placing. The most up to date performance information published in the Live Planning Tables places the Council in the top quartile for 'Speed of Decisions' for 'Major' applications and 'Non-major' applications. This compares to second quartile performance on 'Major' applications and top quartile for 'Non-Major' applications at the end of the year 2020/2021.

Local Performance Indicators (LPI)

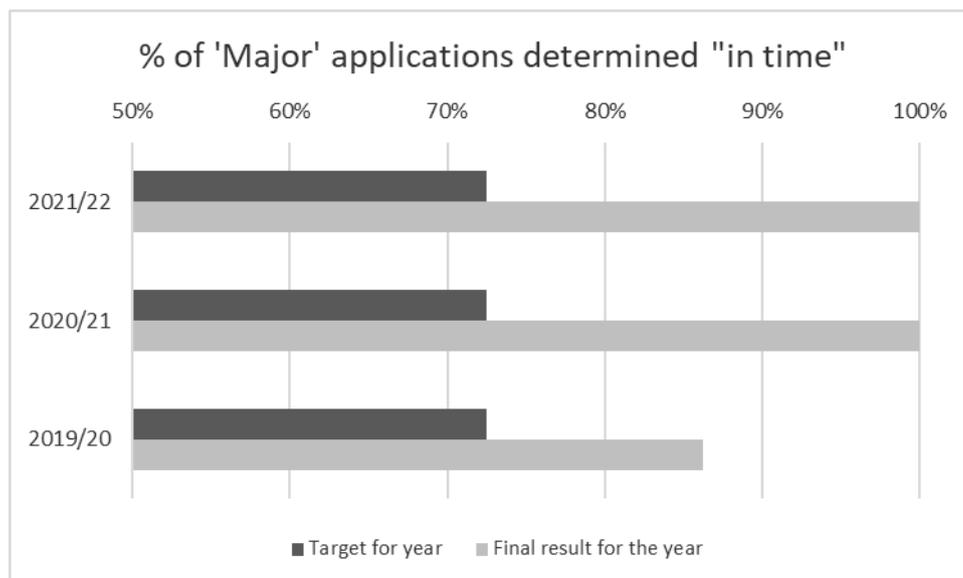
There are 7 indicators, all measuring speed of performance, which are referred to in the commentaries below. Members will note that out of these 7 performance indicators, the target set by the Council for itself has been met in 2021/22 in 5 cases.

INDICATOR - Percentage of applications determined within timescales:-

- (1) 72.5% of 'Major' applications¹ determined 'in time'²**
- (2) 77.5% of 'Minor' applications³ determined 'in time'²**
- (3) 85% of 'Other' applications⁴ determined 'in time'²**
- (4) 85% of 'Non-major' applications⁵ determined 'in time'²**

(see footnotes set out at the end of this report)

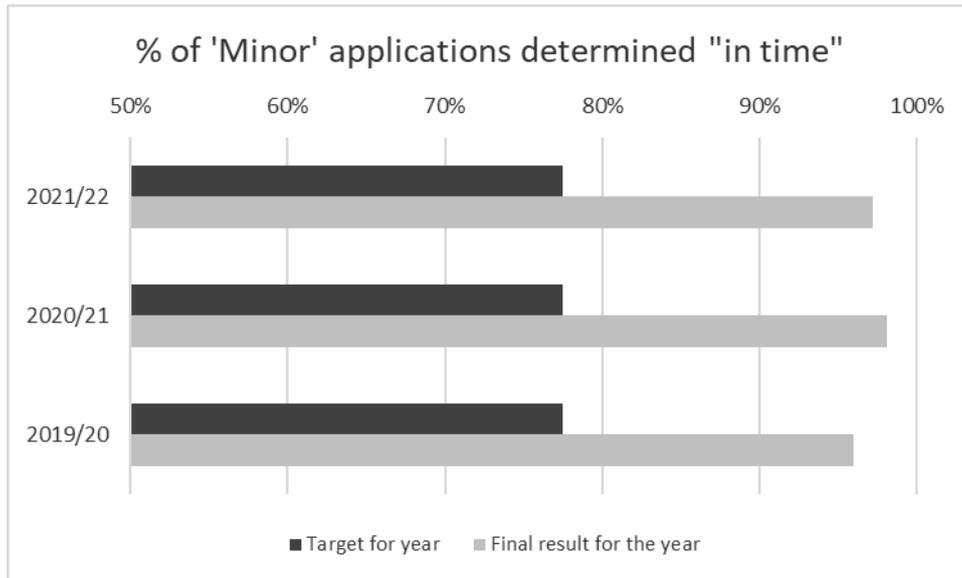
(1) In dealing with 'Major' applications the LPI is 72.5%. The end of year performance 2020/21 was 100%.



100% of decisions have now been issued 'in time' for a 2 year period.

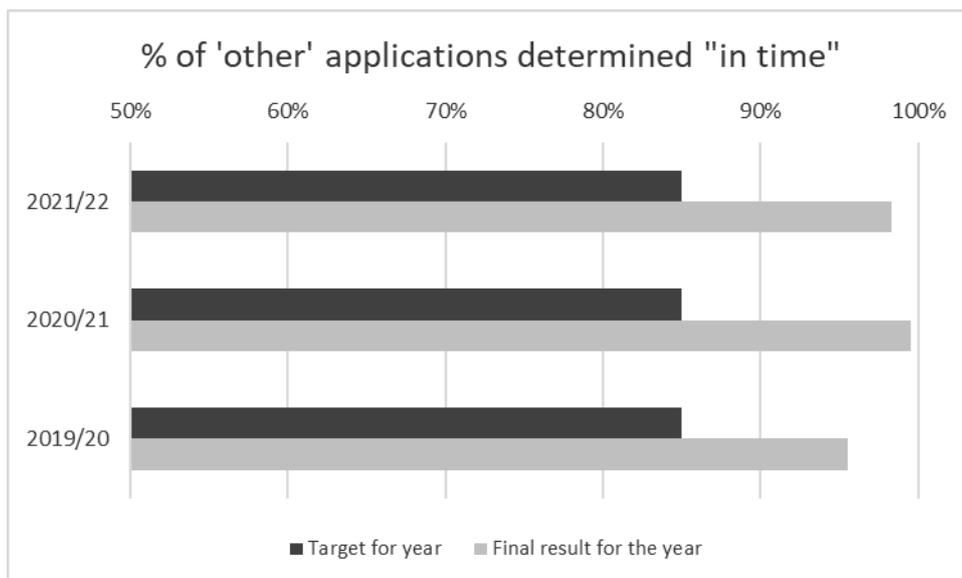
TARGET FOR 2021/21 ACHIEVED

(2) In dealing with 'Minor' applications the LPI for minor is 77.5%. The figures for 2021/22 is 97.2%.



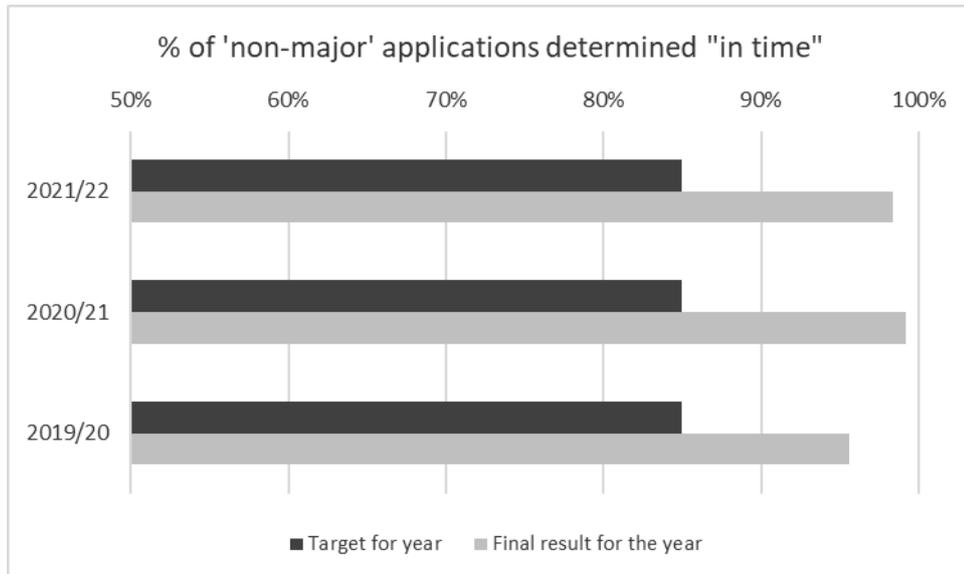
TARGET FOR 2021/22 ACHIEVED

(3) In dealing with 'Other' applications the 'LPI for minor is 85%. The figures for 2021/22 is 98.3%.



TARGET FOR 2021/22 ACHIEVED

(4) In dealing with 'Non-major' applications the 'LPI for minor is 85%. The figures for 2021/22 is 98.4%.

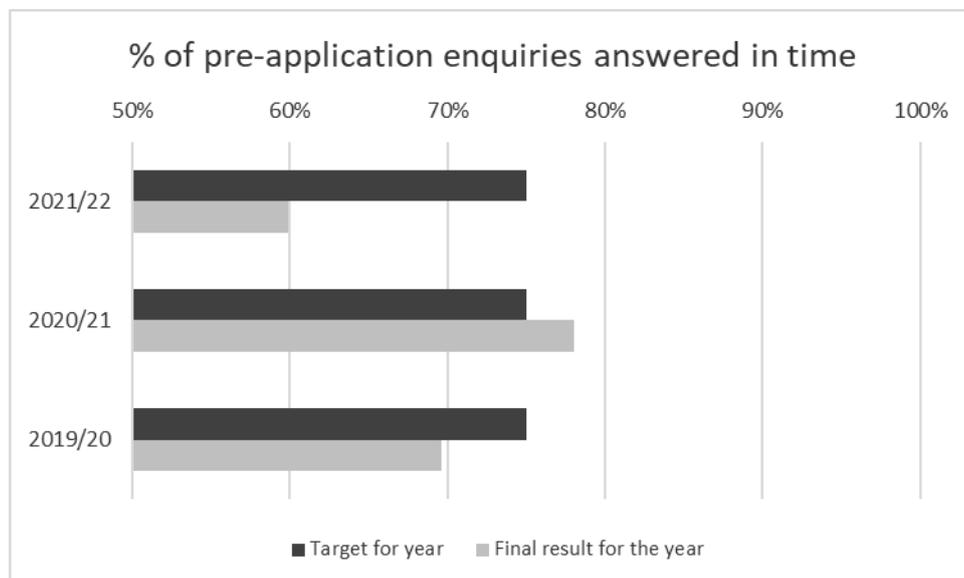


TARGET FOR 2021/22 ACHIEVED

In conclusion, all 4 four targets relating to the speed of determination of planning applications have been exceeded.

INDICATOR - Percentage of pre-application enquiries answered in time

In dealing with **Pre-application enquiries** the 'LPI for minor is 75%. The figures for 2021/22 is 59.9% which is below target and is lower than at the mid-year point.

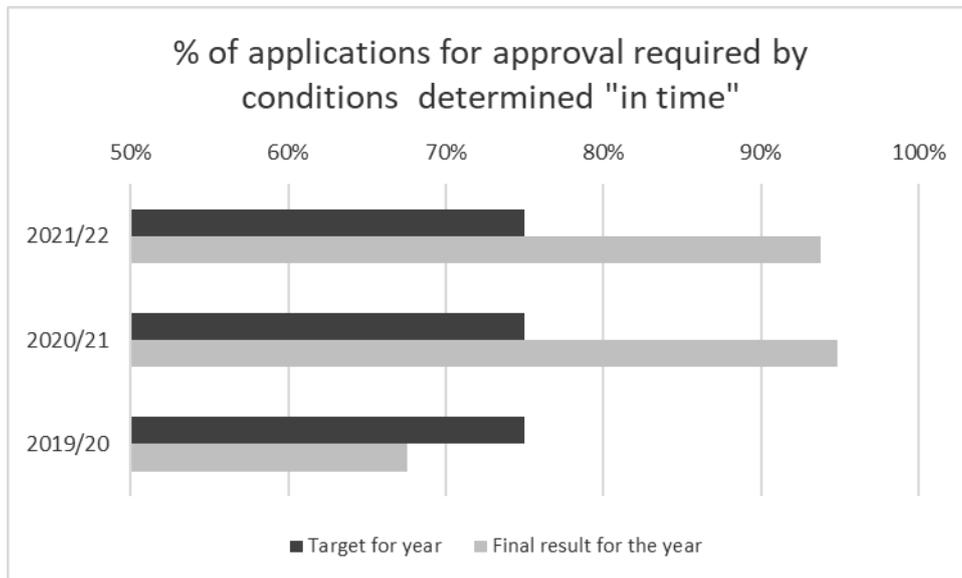


TARGET FOR 2021/22 NOT ACHIEVED

The Service received 472 pre-application enquiries up to the end of 2021/22, slightly fewer than 2020/21 when 512 enquiries were received. The Service has, however, determined considerably more planning applications given that at the end of 2021/22 662 decisions on planning applications have been issued compared to 557 at the end of 2020/21. Whilst the Service continues to provide pre-application advice, the increased demands on officer time due to the increase in applications determined has led to delays that continues to impact upon performance.

INDICATOR - Percentage of applications for approvals required by conditions determined within 8 weeks

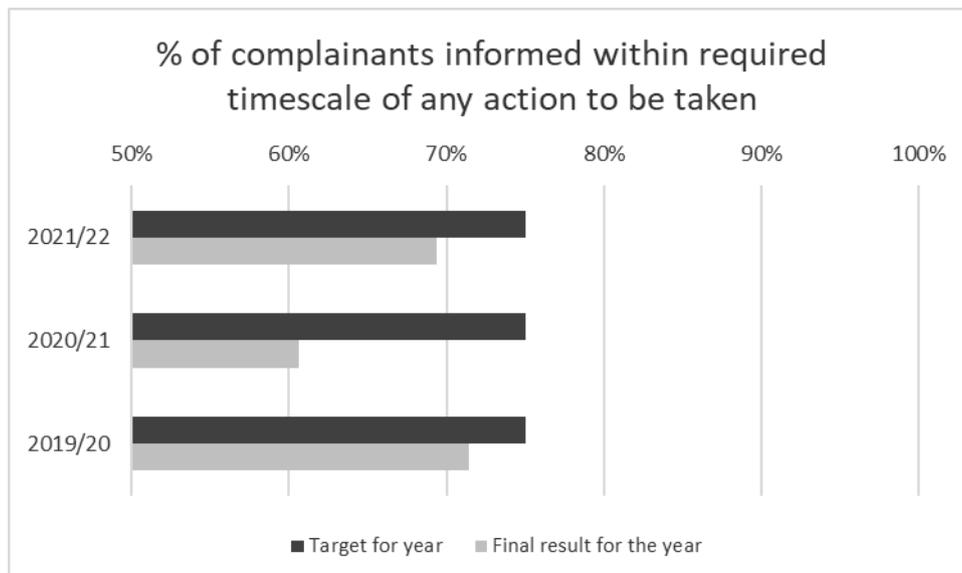
In dealing with **Discharge of Condition applications** the LPI for minor is 75%. The figures for 2021/22 is 93.8%.



TARGET FOR 2021/21 ACHIEVED

INDICATOR - Percentage of complainants informed within the required timescales of any action to be taken about alleged breaches of planning control.

In dealing with 'Enforcement complaints' the 'LPI for this service is 75%. The figures for 2021/22 is 69.4%, lower than was reported in the mid-year performance report 71% but an improvement on the performance for 2020/21 which was 60.6%.



TARGET FOR 2021/22 NOT ACHIEVED

Footnotes

- ¹ 'Major' applications are defined as those applications where 10 or more dwellings are to be constructed (or if the number is not given, the site area is more than 0.5 hectares), and, for all other uses, where the floorspace proposed is 1,000 square metres or more or the site area is 1 hectare or more.
- ² 'In-time' means determined within an extended period of time beyond the normal 8 week target period that has been agreed, in writing, by the applicant.
- ³ 'Minor' applications are those for developments which do not meet the criteria for 'Major' development nor the definitions of 'Other' Development.
- ⁴ 'Other' applications relate to those for applications for Change of Use, Householder Developments, Advertisements, Listed Building Consents, Conservation Area Consents and various applications for Certificates of Lawfulness, etc.
- ⁵ 'Non-major' means all 'minor' development and also householder development and development involving a change of use which fall within the 'other' development category.

Date report prepared:

10th May 2022

Source of information/background papers

- General Development Control Returns PS1 and PS2
- Planning Services own internal records, produced manually and from its UniForm modules.
- [Improving Planning Performance: Criteria for designation \(updated 2020\)](#)
- [MCHLG Live Planning Tables](#)

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APPENDIX 1: 'PERFORMANCE' INDICATORS FOR DEVELOPMENT MANAGEMENT 2019/20, 2020/21 AND 2021/22

Indicator	Year	Target for year	<-----Actuals----->				Final result for the year
			April - June	July - Sept	Oct - Dec	Jan - Mar	
% of 'Major' applications determined "in time"	2021/22	72.5%	100%	100%	100%	100.0%	100%
	2020/21	72.5%	100%	100%	100%	100.0%	100%
	2019/20	72.5%	80.0%	66.7%	100%	100%	86.2%
% of 'Minor' applications determined "in time"	2021/22	77.5%	100%	98.0%	97.3%	92.7%	97.2%
	2020/21	77.5%	100%	100%	97.5%	94.9%	98.1%
	2019/20	77.5%	94.7%	94.3%	97.7%	97.9%	96.0%
% of 'other' applications determined "in time"	2021/22	85%	99.3%	96.9%	98.1%	98.8%	98.3%
	2020/21	85%	100%	100%	99.1%	98.9%	99.5%
	2019/20	85%	91.8%	95.1%	98.8%	97.5%	95.5%
% of "Non-Major" applications determined "in time"	2021/22	85%	99.4%	98.8%	97.9%	96.7%	98.4%
	2020/21	85%	100%	100%	98.6%	98.4%	99.2%
	2019/20	85%	93.1%	94.7%	99.1%	97.6%	95.6%
% of pre-application enquiries answered in time	2021/22	75%	65.6%	66.7%	41.9%	57.9%	59.9%
	2020/21	75%	84.4%	84.2%	72.2%	72.2%	78.0%
	2019/20	75%	67.1%	77.3%	71.8%	63.7%	69.6%
% of applications for approval required by conditions determined "in time"	2021/22	75%	93.9%	97.5%	91.5%	91.6%	93.8%
	2020/21	75%	99.0%	94.1%	98.9%	98.9%	94.9%
	2019/20	75%	49.1%	57.3%	80.6%	96.9%	67.6%
% of complainants informed within required timescale of any action to be taken	2021/22	75%	71.7%	70.1%	60.8%	72.3%	69.4%
	2020/21	75%	62.5%	61.6%	53.7%		60.6%
	2019/20	75%	67.2%	79.2%	63.0%	73.0%	71.4%

Target achieved for complete year

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Appendix 1 – Appeal Decisions on major development applications 1 October 2018 – 30 September 2020

Application No.	Address	Description	LPA decision date	Decision	Appeal Decision Date
18/00371/FUL	The Bennett Arms London Road Chesterton	14 two and three storey terraced houses in three blocks with associated landscape works and parking for 22 vehicles	28.02.2019	Dismiss	16.01.2020
18/00507/OUT	Croft Farm Stone Road Hill Chorlton	Outline planning for the demolition of existing buildings, 1 replacement farmhouse, erection of 11 bungalows, access, parking and amenity space.	01.03.2019	Allow	02.08.2019
18/00692/OUT	10 Poplar Avenue Cross Heath	Formation of 9 new (net) dwellings involving clearance of existing single (1) bungalow and erection of building to contain up to 10 apartments along with on-site parking and site access.	31.01.2019	Dismiss	21.11.2019
19/00042/FUL	Newcastle Under Lyme School Mount Pleasant Newcastle Under Lyme	Proposed extension to existing school sports centre to form new Sports Hall including the demolition of existing outbuildings and formation of new car park widened vehicular access point off highway.	29.05.2019	Allow	18.05.2020
19/00515/OUT	Seabridge Community Education Centre Roe Lane	Outline planning permission for the demolition of all existing buildings and the erection of circa 55 dwellings with associated infrastructure, landscaping and open space. Detailed approval is sought for the means of access only with the details of appearance, landscaping, layout and scale to be reserved for subsequent approval.	25.09.2019	Allow	17.11.2020

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