

Public Document Pack

Date of meeting Tuesday, 23rd June, 2020
Time 6.00 pm
Venue Planning Committee - Virtual Meeting - Conference
Contact Geoff Durham 742222



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

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

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 5 - 8)
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - LAND ADJACENT KEELE UNIVERSITY, KEELE ROAD, NEWCASTLE. KEELE UNIVERSITY. 20/00162/REM** (Pages 9 - 16)
- 5 **APPLICATION FOR MAJOR DEVELOPMENT - MORSTON HOUSE, THE MIDWAY, NEWCASTLE-UNDER-LYME. SSJR MORSTON HOUSE LIMITED. 20/00282/FUL** (Pages 17 - 26)
- 6 **APPLICATION FOR MAJOR DEVELOPMENT - THORP PRECAST, APEDALE ROAD, CHESTERTON. HARVEY THORP. 20/00309/FUL** (Pages 27 - 36)
This item includes a supplementary report.
- 7 **APPLICATION FOR MINOR DEVELOPMENT - APEDALE HERITAGE CENTRE, APEDALE COUNTRY PARK. DR JOHN ROWLANDS. 20/00308/FUL** (Pages 37 - 42)
- 8 **HALF YEARLY REPORT ON PLANNING OBLIGATIONS** (Pages 43 - 52)
- 9 **QUARTERLY REPORT ON EXTENSIONS TO TIME PERIODS WITHIN WHICH OBLIGATIONS UNDER SECTION 106 CAN BE ENTERED INTO** (Pages 53 - 56)

- 10 **APPEAL DECISION - NEWCASTLE-UNDER-LYME SCHOOL, MOUNT PLEASANT, NEWCASTLE-UNDER-LYME. 19/00042/FUL** (Pages 57 - 58)
- 11 **LOCAL PLANNING ENFORCEMENT PLAN** (Pages 59 - 126)
- 12 **FORMER SEVERN TRENT WATER SITE, HAREWOOD STREET, TUNSTALL, STOKE-ON-TRENT. LAND RECOVERY LIMITED. SOTCC ref 65226/FUL (NuIBC ref 348/272)** (Pages 127 - 130)
- 13 **SEABRIDGE COMMUNITY EDUCATION CENTRE, ROE LANE, WESTLANDS, STAFFORDSHIRE COUNTY COUNCIL. 19/00515/OUT** (Pages 131 - 132)
- 14 **APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - 1 GLADSTONE VILLAS, VICTORIA ROAD, NEWCASTLE (Ref: 20/21001/HBG)** (Pages 133 - 134)
- 15 **URGENT BUSINESS**
- To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

Members: Councillors Andrew Fear (Chair), Miss Marion Reddish (Vice-Chair), John Williams, Paul Northcott, Mrs Gillian Williams, Bert Proctor, Simon Tagg, Mrs Silvia Burgess, Dave Jones, Mrs Jennifer Cooper, Mrs Helena Maxfield and Mrs Sue Moffat

Note: only the following Members from the full membership who have been nominated to attend this Zoom meeting are required:

Councillors Andrew Fear (Chair), Miss Marion Reddish (Vice-Chair), John Williams, Paul Northcott, Bert Proctor, Dave Jones, Mrs Helena Maxfield and Mrs Sue Moffat

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

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

Substitute Members:	Kenneth Owen	Gary White
	Mark Holland	Ian Wilkes
	Stephen Sweeney	Ms Sylvia Dymond
	Barry Panter	Kyle Robinson

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

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

ONLINE JOINING INSTRUCTIONS

This meeting will be held virtually using Zoom.

Watching the Meeting

You can attend the meeting in the following ways:

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

Using the Zoom App

Telephone: 0330 088 5830 or 0131 460 1196

The Conference ID for telephone and Zoom App users is: 913 5450 1077

You do not require a password or pre-registration to access this committee meeting.

Please note, as an attendee you will only be able to watch the meeting. You will not be able to vote, ask questions or discuss the materials presented to the committee.

Questions and Representations

If you would like to ask a question or make a representation during the meeting, please inform our Planning Services team by emailing geoff.durham@newcastle-staffs.gov.uk. All requests to ask questions or make representations should be submitted by 12 noon on the Thursday before the meeting.

In your email, please include details of the item you would like to speak on and, if you are asking a question, the question itself. If you cannot be identified to ask your question during the meeting, the meeting Chairperson will ask the question for you.

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

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

This page is intentionally left blank

PLANNING COMMITTEE

Tuesday, 26th May, 2020
Time of Commencement: 6.00 pm

Present: Councillor Andrew Fear (Chair)

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

Officers:	Elaine Moulton	Development Management Team Manager
	Nick Bromley	Senior Planning Officer
	Geoff Durham	Mayor's Secretary / Member Support Officer
	Shawn Fleet	Head of Planning and Development
	Daniel Dickinson	Head of Legal & Governance /Monitoring Officer
	David Elkington	Head of Customer and Digital Services

Also in attendance:

1. **APOLOGIES**

There were no apologies.

2. **DECLARATIONS OF INTEREST**

Councillor Jones declared a non-pecuniary interest in application 20/00291/FUL as an employee of Keele University.

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

Resolved: That the minutes of the meeting held on 28 April, 2020 be agreed as a correct record.

4. **APPLICATION FOR MAJOR DEVELOPMENT - LAND WEST OF PIT HEAD CLOSE, LYMEDALE BUSINESS PARK PEVERIL SECURITIES LTD. 20/00123/OUT**

Resolved; (A) That, subject to the applicant first entering into a Section 106 obligation by the 1st July 2020 to secure a contribution sum of £2,407 towards Travel Plan monitoring,

The application be permitted subject to the undermentioned conditions:

- (i) Standard time limits for submission of applications for approval of reserved matters and commencement of development;

- (ii) Approved plans;
 - (ii) Any reserved matters application to comply with principles of the Design and Access Statement;
 - (iv) The building(s) shall have a maximum height of 22 metres;
 - (v) Prior approval of full site access details, including the footway / cycle path;
 - (vi) The existing site access on Loomer Road permanently closed off;
 - (vii) Secure weatherproof cycle parking facility;
 - (viii) Implementation of Travel Plan Framework;
 - (ix) Prior approval of access gates;
 - (x) Highway & Environmental Construction and Demolition Management Plan (CMP)
 - (xi) Reserved matters application to be accompanied by a noise assessment and noise a management plan;
 - (xii) Prior approval of external lighting
 - (xiii) Electric vehicle charging provision
 - (xiv) Land contamination investigations and mitigation measures;
 - (xv) Unexpected ground water contamination;
 - (xvi) Reserved matters application to include a detailed surface water drainage scheme (SuDS);
 - (xvii) Reserved matters application to be accompanied by a landscape masterplan;
 - (xviii) TV reception mitigation measures;
 - (xix) Reserved matters application to include refuse collection arrangements;
 - (xx) Intrusive coal mining site investigations and the findings to form part of the reserved matters application
 - (xxi) Implementation of coal mining remedial works;
 - (xxii) Recommendations as per the submitted ecological report
- (B) Should the matters referred to in (A) above not be secured within the above period, then the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure sustainable development objectives, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

5. **APPLICATION FOR MINOR DEVELOPMENT - KEELE UNIVERSITY, THREE MILE LANE, KEELE. MR ASHLEY HULME, KEELE UNIVERSITY. 20/00291/FUL**

Resolved: That the variation of Condition 3 of 18/00456/FUL be permitted so that it reads as follows:

The development hereby permitted shall be fully removed from the site in its entirety and the land reinstated to its original appearance before the development was installed by the end of March 2021.

and subject to the imposition of all other conditions attached to planning permission 18/00456/FUL that remain relevant at this time.

6. **A500 BETWEEN M6 JUNCTION 16 AND THE MEREMOOR MOSS ROUNDABOUT. CHESHIRE EAST HIGHWAYS. CHESHIRE EAST REF 20/1709N (NULBC REF 348/271)**

Resolved: That Cheshire East Council be informed that the Borough Council supports the planning application on the grounds that it would improve journey times and assist in the economic development of the area.

A note should also be added to a response letter ensuring that the public right of way crossing the A500 should be kept safe for its users.

7. **5 BOGGS COTTAGE, KEELE. 14/00036/207C3**

Resolved: (i) That the information be received and a further update report be brought to the 21st July Planning Committee.
(ii) That a letter be sent to the Inspectorate asking when a Hearing will be held.

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

Resolved: (i) That the information be received and a further update report be brought to the 21st July Planning Committee.
(ii) That a letter be sent to the agencies concerned asking them to closely monitor the situation.

9. **RESIDENTIAL DEVELOPMENT ON SITE OF THE FORMER SILVERDALE COLLIERY. 17/00258/207C2**

Resolved: (i) That the information be received and a further update report be brought to the 21st July Planning Committee.

10. **VALIDATION CHECK CHARGES**

The Council's Head of Planning and Development, Shawn Fleet advised Members on the new validation check service which would allow applications to be processed faster. The service would ensure that all required documentation and information was correct prior to formal submission.

The service would incur a charge of £100 for larger developments, such as residential developments and £50 for other commercial developments. No charge would be made on domestic application validation checks.

Members were advised that this service was optional but would help those who had to adhere to a timeline.

Resolved: That the information be received and agreed.

11. **PLANNING COMMITTEE SITE VISIT DATES FOR 2020-21**

Resolved: That the above list of dates and times for possible Planning Committee site visits for 2020-21 be agreed.

12. **TREE PRESERVATION ORDER - LAND AT ST JOHN FISHER CATHOLIC COLLEGE, ASHFIELDS NEW ROAD, NEWCASTLE. TPO 208**

Resolved: That Tree Preservation Order No 208 (2020), Land at St John Fisher Catholic College, Ashfields New Road, Newcastle under Lyme be confirmed as made and that the owners of the site be informed accordingly.

13. **URGENT BUSINESS**

There was no Urgent Business.

Chair

Meeting concluded at 6.42 pm

**LAND ADJACENT KEELE UNIVERSITY, KEELE ROAD, NEWCASTLE
KEELE UNIVERSITY**

20/00162/REM

The application is for the approval of reserved matters for the erection of a Digital Research and Education Centre with associated car parking and landscaping.

The reserved matters submitted for approval are all the matters of detail comprising access, appearance, landscaping, layout and scale.

This application for approval of reserved matters follows the granting of an outline planning permission for buildings accommodating academic functions; staff and student residences; employment uses directly related to or complementary to the University's core activities; and Class B1 uses directly related to the University's functional activities but excluding manufacturing or storage of large tonnages or mass production of goods (Refs. 05/01146/OUT and 17/00934/OUT). The original consent also granted full planning permission for various engineering works that include the creation by cut and fill of levelled plots, some hard and soft landscaping and the creation of the road network serving these plots. Those works were all undertaken.

The site is part of that allocated on the Local Development Framework Proposals Map for employment/higher education-led development (Proposal E8). The site lies within an area which on the Local Development Framework Proposals Map is excluded from the Green Belt but lies within an Area of Landscape Maintenance. The site is covered by Policy area E8 (on development at Keele University and Keele Science Park). The site lies outside of the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall.

The 13 week period for the determination of this application expires on the 4th June but the applicant has agreed to an extension of time to 26th June 2020.

RECOMMENDATION

PERMIT subject to conditions relating to the following:-

- 1. Link to outline planning permission and conditions**
- 2. Approved drawings**
- 3. Materials**
- 4. Tree protection plan**
- 5. Detailed planting proposals**
- 6. Provision of the access, parking, turning and servicing areas in accordance with the approved plans**
- 7. Submission of a travel plan**
- 8. Submission of details of secure weatherproof cycle parking for students and staff.**

Reason for Recommendation

The proposed use is considered to comply with the terms of the outline consent. Subject to the imposition of conditions the details of access, appearance, landscaping, layout and scale are considered acceptable. The proposed development therefore accords with the development plan for the locality indicated below and there are no material considerations which would justify a refusal of this reserved matters submission.

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

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

Key Issues

The application is for the approval of reserved matters for the erection of a Digital Research and Education Centre with associated car parking and landscaping.

The reserved matters submitted for approval are all the matters of detail comprising access, appearance, landscaping, layout and scale.

This application follows the granting of an outline planning permission for buildings accommodating academic functions; staff and student residences; employment uses directly related to or complementary to the University's core activities; and Class B1 uses directly related to the University's functional activities but excluding manufacturing or storage of large tonnages or mass production of goods (Refs. 05/01146/OUT and 17/00934/OUT). The original consent also granted full planning permission for various engineering works that include the creation by cut and fill of levelled plots, some hard and soft landscaping and the creation of the road network serving these plots. Those works were all undertaken.

The site is part of that allocated on the Local Development Framework Proposals Map for employment/higher education-led development (Proposal E8). The site lies within an area which on the Local Development Framework Proposals Map is excluded from the Green Belt but lies within an Area of Landscape Maintenance. The site is covered by Policy area E8 (on development at Keele University and Keele Science Park). The site lies outside of the Grade II Registered Parkland and Garden of Special Historic Interest at Keele Hall.

The proposed use as a digital research and education centre falls within the scope of the uses and the parameters of the development mix specified in the outline consent and therefore the main issues for consideration in the determination of this application are:-

- Are the siting and design of the building acceptable and would there be any significant adverse impact on the character and appearance of the area?
- Would there be any impact on the existing trees and is the submitted landscaping appropriate?
- Is the level of car parking proposed acceptable?

Are the siting and design of the building acceptable and will there be any significant adverse impact on the character and appearance of the area?

The proposals comprise two phases of development. Phase 1 would contain workspace for Small and Medium sized Enterprises as well as some specialist space for both external business and University research and use and Phase 2 would comprise a proposed future addition containing teaching and learning spaces.

The development would be located in the northern part of the wider Science Park adjacent to the hotel currently under construction and in close proximity to the Smart Innovation Hub and the recently approved Veterinary School. The building would be positioned to the south-west of the site fronting onto University Avenue with car parking to the rear and access via a new access route to the north serving the hotel.

The building would comprise three storeys and would be approximately 17 metres in height. The ground floor would be constructed of brick and the upper two floors would comprise rainscreen cladding and ceramic baguettes (a decorative building material). The windows and doors would be aluminium.

The outline planning permission, 17/00934/OUT, was supported by Design Guidance and a condition of the permission specified that any reserved matters coming forward for approval shall comply with that Design Guidance. The proposed building would be within Zone A in the Guidance. Zone A is the northern part of the wider site and the Guidance states that to respond to its more direct relationship with the Medical School, Innovation Centres and University Campus, Zone A's infrastructure has been implemented in a more overtly urban manner. It states that buildings within this zone will need to have regular, defined and active frontages, with hard and soft landscaping also reflecting the order and rhythm. Building forms will need to respond to urban opportunities and features such as junctions of routes, activity nodes and important visual axes. It states that it is important that building heights appear consistent as this formality is an essential part of Zone A's character.

In consideration of the proposal, the Urban Vision Design Review Panel (UVDRP) considered the proposed scale of the building and form to be appropriate for the site context. They welcomed the design approach to the project and considered the work undertaken to be comprehensive, demonstrating a good understanding of site context. The Panel made the following recommendations relating to refinement of the design:

- Provision of a set of plans to show the scheme within the wider site context
- Strengthening of the landscape framework including a strategic overview and utilising this information to inform the landscape proposals
- Strengthening the proposals for the site frontage and building entrance including repositioning the building further to the north, articulating the southwest gateways and strengthening the main entrance
- Ensuring the robust design concept is evident in the building's architectural appearance
- Increasing the visual height of the ground floor and ensuring a place making approach to the access route and car park.

The architect has addressed some of the above recommendations through the submission of a site context plan, revisions to the landscape proposals to create a better sense of arrival, refinement of the design to give a simple restrained approach and a review of the treatment of the ground floor to simplify it and accentuate its verticality.

In the context of the existing buildings, particularly the hotel, and the recently approved veterinary school, the height of the building as proposed is considered to be acceptable in this location. The crisp contemporary design is considered appropriate and subject to a condition requiring agreement of the cladding and brick colours, your Officer is satisfied that the proposed materials are acceptable.

The siting, design and materials are therefore considered to be appropriate and it is not considered that the proposal would have any adverse impact on the character and appearance of the area.

Would there be any impact on the existing trees and is the submitted landscaping appropriate?

There is existing woodland to the north-east of the site, part of which is included in Tree Preservation Order 2. The Landscape Development Section raises no objections to the development subject to a condition regarding tree protection. Subject to such a condition, it is not considered that there would be any adverse impact on the existing trees.

The landscape proposals comprise an area of soft landscape to University Avenue and hard landscape adjacent to the building frontage. Tree planting is proposed to the eastern, western and northern boundaries of the building, to the northern edge of the access route and within the car park. The Landscape Development Section has no objections to the planting proposals and overall the landscaping is considered appropriate to the development.

Is the level of car parking proposed acceptable?

A total of 94 car parking spaces (including six spaces for people with disabilities) would be provided to the rear of the proposed building along with 5 electric vehicle charging points, 6 motor cycle spaces and 44 cycle spaces.

Paragraph 108 of the NPPF states, inter alia, that development should ensure that safe and suitable access to the site can be achieved for all users and paragraph 109 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110, inter alia, states that applications for development should create places that minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Policy T16 of the Local Plan, adopted in 2003, states that development will not be permitted to provide more parking than the levels set out in an appendix. The proposed development comprises a mix of business and teaching and learning spaces. The car parking standards in the Local Plan do not specify a standard for University teaching and learning space but for business uses, a maximum of 1 space per 30 square metres of floorspace is recommended. On this basis, a maximum of 87 spaces

would be required for Phase 1 of the scheme. As stated above, a total of 94 spaces are proposed for both phases of development.

The University are seeking to actively manage estate car parking availability holistically and given the mix of the uses proposed, the level of car parking is considered appropriate and should not undermine longer term efforts to achieve modal shift through Travel Planning. The proposal would fall within the trip envelope for the wider development site as set out in the outline consent and bearing in mind that the Highway Authority has no objections to the development subject to planning conditions, it is concluded that there are no highway safety concerns arising from this development that would warrant the refusal of planning permission.

APPENDIX

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

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

Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

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

Policy E8: Keele University and Keele Science Park
Policy N17: Landscape Character – General Considerations
Policy N19: Landscape Maintenance Areas
Policy T16: Development – General Parking Requirements

Other Material Considerations include:

National Planning Policy

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

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

Supplementary Planning Guidance/Documents

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

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

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

Relevant Planning History

05/01146/OUT (A) Full planning permission for engineering operations including plateau formation, earthworks, layout of road network, cyclepaths and footpaths, drainage works and other ancillary works

(B) Outline planning permission for development for (a) academic function's; (b) staff and student residences; (c) employment uses directly related to or complementary to the University's core activities including conference, training, retail and leisure – for use of students, staff conference delegates and their visitors and in the case of leisure facilities for the wider community; (d) Class B1 uses directly related to the University's functional activities but excluding manufacturing or storage of large tonnages or mass production of goods - Approved

17/00934/OUT Proposed development for (a) academic functions; (b) staff and student residences; (c) employment uses directly related to or complementary to the University's core activities including conference, training, retail and leisure - for the use of students, staffs, conference delegates and their visitors and in the case of leisure facilities for the wider community; (d) Class B1 uses directly related to the University's functional activities but excluding manufacturing or storage of large tonnages or mass production of goods - Approved

Views of Consultees

The **Environmental Health Division** makes no comments.

The **Highway Authority** has no objections subject to the imposition of conditions requiring the provision of the access, parking, turning and servicing areas in accordance with the approved plans, submission of a travel plan and the submission of details of secure weatherproof cycle parking for students and staff.

The **Landscape Development Section** has no objections subject to the submission of detailed planting proposals and a Tree Protection Plan to BS5837:2012 for the adjacent woodland to the northeast, part of which is included in Tree Preservation Order number 2.

The **Conservation Officer** makes no comments.

Historic England makes no comments.

Staffordshire County Council Flood Authority has no objections.

The **Police Crime Prevention Design Advisor** makes the following recommendations:

- Offenders should be denied the opportunity for a vehicle to approach the building and use it to force entry.
- The external materials will need to provide an appropriate level of intruder resistance.
- The simple straight external lines of the building and avoidance of recesses should be beneficial in aiding both natural and CCTV surveillance.
- The merits of appropriate monitored CCTV coverage should be fully explored and should be extended to the car park and cycle parking.

Keele Parish Council has no comments or objections.

No comments have been received from **The Gardens Trust** and **National Grid** and given that the period for comment has ended it must be assumed that they have no comments to make.

Representations

None received.

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Drainage Strategy
- Ecological Appraisal
- Bream Pre-Assessment Report

All of these documents are available for inspection as associated documents to the application in the Planning Section of the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00162/REM>

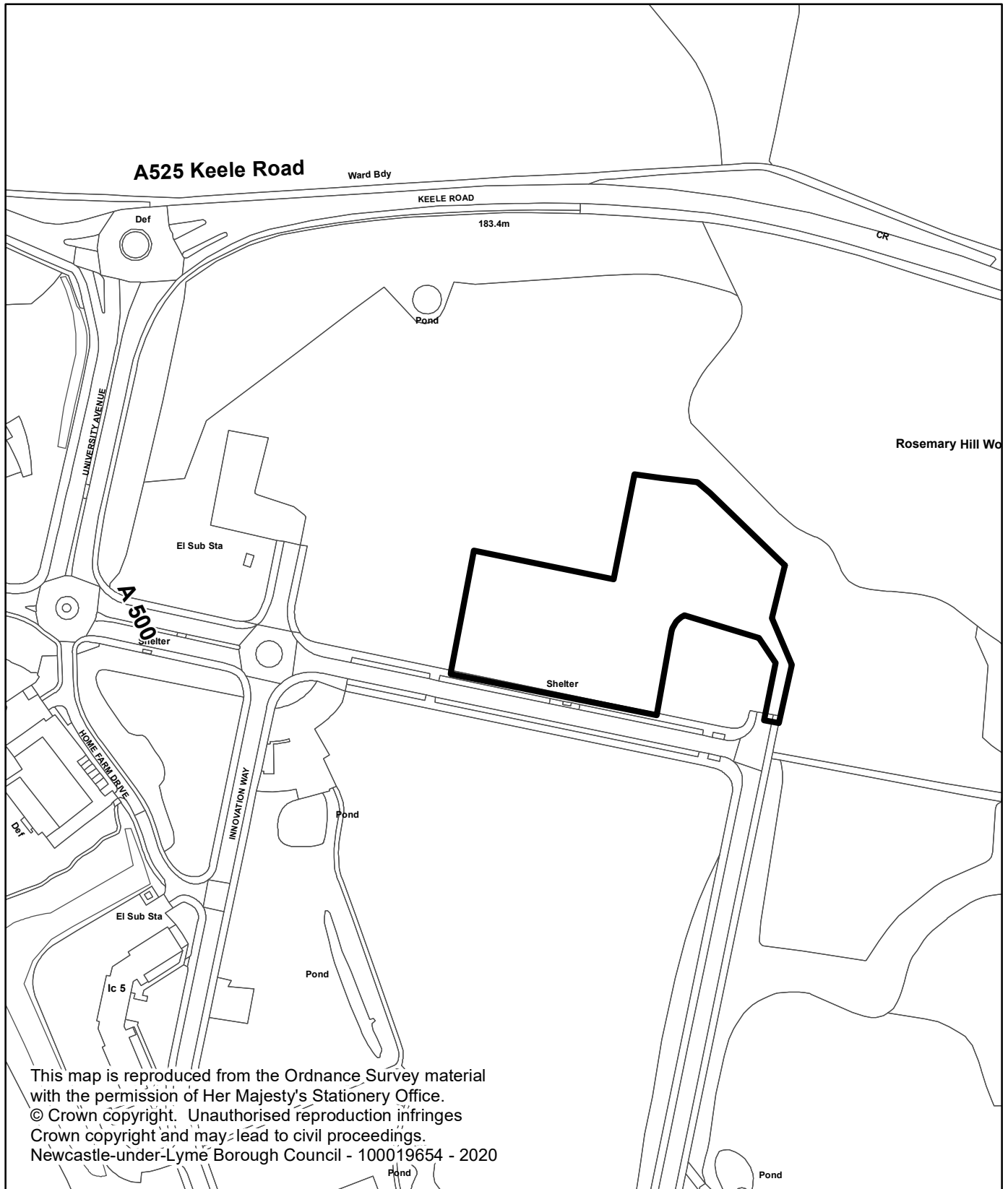
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

4th June 2020

**Land Adjacent Keele University - Reserved matters
for the erection of a Digital Research and Education Centre
with associated car parking and landscaping pursuant to
outline consent 17/00934/OUT Keele University
20/00162/REM**



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office. © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings. Newcastle-under-Lyme Borough Council - 100019654 - 2020

This page is intentionally left blank

MORSTON HOUSE, THE MIDWAY, NEWCASTLE-UNDER-LYME
SSJR MORSTON HOUSE LIMITED

20/00282/FUL

Full planning permission is sought for the conversion of the lower ground and upper ground floors of Morston House to 31 no. studio flats for students.

The site lies within the Newcastle Town Centre Conservation Area and the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as lying within the Town Centre Historic Core.

The 13 week period for the determination of this application expires on 9th July 2020.

RECOMMENDATION

A) Subject to the applicant entering into a Section 106 obligation by agreement by 31st July to secure financial contributions of £60,357 towards the enhancement of public open space and £2,443 towards travel plan monitoring

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

- i. Commencement time limit**
- ii. Approved plans**
- iii. Occupation by students only**
- iv. Prior approval of ventilation of habitable spaces**
- v. Secure cycle parking in accordance with approved details**
- vi. Implementation of travel plan**
- vii. Prior to occupation the two existing ambulance parking bays to be replaced by a loading bay**
- viii. Construction Management Plan**
- ix. Details of boundary treatments**
- x. Tree protection proposals**
- xi. Arboricultural Method Statement**
- xii. Full landscaping proposals**

B) Should the above Section 106 obligation not be secured within the above period, the Head of Planning be given delegated authority to refuse the application on the grounds that without such a matter being secured, the development would fail to meet the public open space impacts of the development and would fail to ensure it achieves sustainable development outcomes; or, if he considers it appropriate, to extend the period of time within which the obligations can be secured.

Reason for Recommendation

The site provides a sustainable location for additional residential development and the change of use of the building would not have any adverse impact on the character and appearance of the Conservation Area and as such there would be no harm to the designated heritage asset. The development would provide acceptable living conditions for its occupiers and given its highly sustainable location, it is not considered that the lack of parking within the proposal would have any significant adverse impact on highway safety so as to justify a refusal on such grounds.

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

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

Key Issues

Full planning permission is sought for the conversion of the lower ground and upper ground floors of Morston House to 31 no. studio flats for students. Consent has been recently granted under the prior notification procedure to convert the upper four floors of the building from offices to 84 studio flats (Ref. 20/00264/COUNOT).

The site lies within the Newcastle Town Centre Conservation Area and the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as lying within the Town Centre Historic Core.

The key issues in the determination of the application are:

- Is the principle of the proposed development on the site acceptable?
- Is the proposal acceptable in terms of its impact on the form and character of the Conservation Area?
- Are acceptable residential amenity levels achieved for the occupiers?
- Is the proposal acceptable in terms of highway safety and sustainable travel initiatives?
- What, if any, planning obligations are necessary to make the development policy compliant?

Is the principle of the proposed development on the site acceptable?

As indicated above the proposal is for residential accommodation specifically for students. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land. The site is located within the Urban Area of Newcastle.

Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - 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 (within which the site lies).

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 Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

The Newcastle Town Centre SPD states that encouraging mixed-use development increases the diversity of uses within a locality. As a result, such development would enhance the vitality and viability of the Town Centre by encouraging its use by a greater range of people for different purposes, possibly at different times of the day and night. This helps to strengthen the social fabric and economic viability of the Town Centre. It also has positive implications in terms of sustainable development as it encourages proximity of uses, reducing the need to travel.

The SPD places the application site within the Town Centre Historic Core where any development opportunities would be likely to be infilling and intensification, with special attention to conservation. It also states that retail activities must continue to predominate. This site is not on the Prime Frontage of the Primary Shopping Area which is where the SPD states that pure retail should dominate.

This is a previously developed site in a highly sustainable location within the urban area. The site is in easy walking distance of the shops and services of Newcastle Town Centre with regular bus services to destinations around the borough, including Keele University, and beyond. It is considered that the site provides a sustainable location for additional residential development that would accord with the Town Centre SPD.

The Council is currently able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 5.45 years as at the 1st April 2018. Development for

residential purposes on this site is supported by policies of the Development Plan and it is considered that the site provides a sustainable location for additional residential development.

Is the proposal acceptable in terms of its impact on the form and character of the Conservation Area?

Local and national planning policies seek to protect and enhance the character and appearance of Conservation Areas and development that is contrary to those aims will be resisted. There is a statutory duty upon the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of Conservation Areas in the exercise of planning functions.

The NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset such as a Conservation Area, Listed Building or Registered Park and Garden, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Saved NLP Policy B9 states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas.

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) states in HE4 that new development in a Conservation Area must preserve or enhance its character or appearance. It must:-

- a. Where redevelopment is proposed, assess the contribution made by the existing building to the character or appearance of the Conservation Area and ensure that the new development contributes equally or more.
- b. Strengthen either the variety or the consistency of a Conservation Area, depending upon which of these is characteristic of the area.
- c. The development must not adversely affect the setting or detract from the qualities and significance that contribute to its character and appearance.

The Conservation Area Appraisal notes that the area around The Midway is considered to be a negative character area. Minimal external changes to the building are proposed but at ground floor level the undercroft car park would be infilled which would provide a more attractive and active frontage to the building, particularly in views from Lower Street. The introduction of a residential use into the lower levels of the building would provide more activity and natural surveillance, and should help to "lift" the area. It is not considered that the change of use of the lower ground and upper ground floors of the building would have any adverse impact on the character and appearance of the Conservation Area and therefore it is concluded that there would be no harm to the designated heritage asset.

Are acceptable residential amenity levels achieved for the occupiers?

The area is predominantly commercial in nature and therefore external noise levels from road traffic noise and night time noise during the weekend are likely to affect the living conditions of the occupiers

of the development. The application is accompanied by a Noise Impact Assessment which concludes that through the incorporation of a robust glazing specification, acceptable noise levels would be achieved within habitable areas. The Environmental Health Division (EHD) has no objections from a noise perspective subject to conditions.

It is considered that the residents of all rooms would have an acceptable outlook and level of amenity and some outside amenity space would be available in addition to a number of open spaces and parks within and around the town.

Overall it is considered that the development would provide acceptable living conditions for its occupiers.

Is the proposal acceptable in terms of highway safety and sustainable travel initiatives?

Policy T16 of the Local Plan states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets. Saved Policy T17 of the Local Plan states that development in Newcastle Town Centre within the ring road will not be permitted to provide new private parking but will be required, where appropriate, to contribute to appropriate improvements to travel to the development. The policy identifies what such improvements may include.

The NPPF, at paragraph 109, states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. It went on to state that Local Planning Authorities should only impose local parking standards where there is clear and compelling justification that it is necessary to manage their local road network.

As already stated, consent has been recently granted under the prior notification procedure to convert the upper four floors of this building from offices to 84 studio flats (Ref. 20/00264/COUNOT). Therefore this proposal would result in a total of 115 studio flats at the site, all for student accommodation. No parking is proposed within the site but a cycle store with capacity for 98 cycles would be provided.

The application is supported by a Transport Statement which concludes that the development proposals would not give rise to any adverse transport impacts and is considered an entirely appropriate form of development in transport and highways terms. In relation to parking, the Statement sets out that students would be made fully aware of the car-free nature of the site prior to occupation, however should any students require ownership of a car then they could purchase a season ticket to park within The Midway multi-storey car park. A Residential Travel Plan has also been submitted to promote the sustainability of the site. The implementation of the Travel Plan would be secured via a condition.

Along The Midway frontage of the site to the north, there are two on-street ambulance bays which would be converted to a short stay loading bay for deliveries, refuse collections, pick-ups and drop-offs. The applicant would fund the necessary traffic regulation order amendments.

The Highway Authority has no objections to the proposal. They refer to the very sustainable nature of the site with excellent access to the main bus station, shops and other services and highlight that the Transport Statement has demonstrated that the site can be accessed by alternative travel modes including walking, cycling and public transport. Given the sustainable location of the site they consider it acceptable that no car parking is provided. The Midway multi-storey car park is located directly adjacent to the site and it is understood that permit parking can be obtained if required. They note that there are also parking restrictions (double yellow lines) on The Midway and other roads within the vicinity of the site.

Your Officer's view is that there is a very good bus service between the town centre and Keele University Campus or Staffordshire University, and very limited parking is available to students at both Staffordshire and Keele Universities – all of which would influence students to leave any vehicle they may have at home. In addition there is a wide range of facilities and services within a very short distance of the site that can be accessed more easily on foot than car. Such factors will encourage student occupiers to not have a vehicle.

In allowing an appeal in 2018 for 211 rooms of student accommodation at the former Savoy Cinema/Metropolis nightclub on the Midway (reference 17/00174/FUL) without any on-site parking provision, the Inspector agreed that the University's measures to discourage students from driving to campus and parking their vehicles will have some effect of discouraging students bringing their cars of study. He acknowledged that it is inevitable that some students will wish to use their own vehicles and may wish to park in unrestricted residential streets but concluded that given the provisions of the Framework in the light of the Written Ministerial Statement and the package of measures that can be put in place to encourage the use of more sustainable means of transport there was insufficient evidence that the proposal would be likely to have a harmful effect on highway safety resulting from additional demand for on-street parking.

Having regard to the conclusions of the Inspector in relation to the Savoy scheme and given the highly sustainable location of the proposed development, it is not considered that the lack of parking within the proposal would have any significant adverse impact on highway safety so as to justify a refusal on such grounds.

What, if any, planning obligations are necessary to make the development policy compliant?

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

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

The development would put pressure on nearby areas of public open space given that such needs are not satisfied on site and it is considered that in principle a financial contribution towards such areas could comply with CIL Regulations and the Council's adopted Developer Contribution SPD.

The Landscape Development Section (LDS) has requested a contribution but has made certain adjustments in recognition that the standard contribution sought is based upon there being on average 2.5 people occupying each dwelling and that all of the units within this development will be single person accommodation. The adjustment that has been made is to request 2/5ths of the total for each unit. This is considered reasonable. The LDS has indicated that any financial contribution that is secured could be used for nearby town centre public realm and green spaces. Given the proximity of the application site to the town centre green spaces, this is considered acceptable as it would be directly related to the development.

Although omitted in error from the consultation response of the Highway Authority, a travel plan monitoring fee of £2,443 is considered to meet the CIL Regulations Section 122 tests and therefore is considered necessary.

APPENDIX

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

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP2: Historic Environment
Policy CSP3: Sustainability and Climate Change
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

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

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy T17: Parking in Town and District Centres
Policy B5: Control of Development Affecting the Setting of a Listed Building
Policy B9: Prevention of Harm to Conservation Areas
Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area
Policy B13: Design and Development in Conservation Areas
Policy B14: Development in or Adjoining the Boundary of Conservation Areas
Policy C4: Open Space in new housing areas
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

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

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD](#) (2009)

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

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

[Newcastle Town Centre SPD](#) (2009)

[Newcastle Town Centre Conservation Area Appraisal](#) (August 2008)

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

[Relevant Planning History](#)

06/00827/COU Change of use of ground floor from use as offices to part use for provision of consultancy services for mental health and part use for administration - Approved

17/00430/COUNOT	Prior notification of conversion of 1st, 2nd, 3rd and 4th floors from offices to form 48 no. residential units (B1a - C3) – Approved
19/00698/COUNOT	Prior notification of change of use of the existing Class B1 (a) (office) floorspace on 1st, 2nd, 3rd and 4th floors to Class C3 (residential) use as 92 studio flats – Approved
20/00264/COUNOT	Application for prior approval for change of use from offices (B1A) to residential (C3) – Approved

Views of Consultees

The **Highway Authority** has no objections subject to conditions regarding implementation of a TRO, provision of the cycle store, implementation of Travel Plan and submission of a Construction Management Plan.

The **Environmental Health Division** has no objections subject to a condition requiring prior approval of ventilation of habitable spaces.

The **Landscape Development Section** states that the proposed fence is likely to impact on adjacent important retained trees and concerns are raised regarding the visual impact of the boundary treatment. Conditions are recommended requiring details of the proposed boundary treatment, tree protection details, an Arboricultural Method Statement and full landscaping proposals. An appropriate developer contribution for off-site public open space is required which could be spent on nearby town centre public realm and green spaces.

Housing Strategy states that in the past the Council has not sought affordable housing on purpose built student accommodation. On this basis, a condition is recommended specifying that the development should be for occupation by students only.

The **Waste Management Section** states that the proposed waste management plan is acceptable.

Staffordshire Police **Crime Prevention Design Advisor** states that the external layout features are welcomed as a deterrent to intrusion but there is very little narrative to explain how the development will operate including how a secure environment will be created. A number of recommendations are made.

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

Representations

One letter of objection has been received stating that there has been an enormous amount of student building in the last few years and although students contribute a small amount to the economy, it is not really supporting the long term interests of the town. Something needs to be done about the building standing empty at the centre of town before considering further student development.

Applicant's/Agent's submission

A Noise Impact Assessment, Transport Statement, Travel Plan, Waste and Recycling Management Plan and information on security measures have been submitted. All of the application documents can be viewed on the Council's website using the following link: <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00282/FUL>

Background papers

Planning files referred to
 Planning Documents referred to

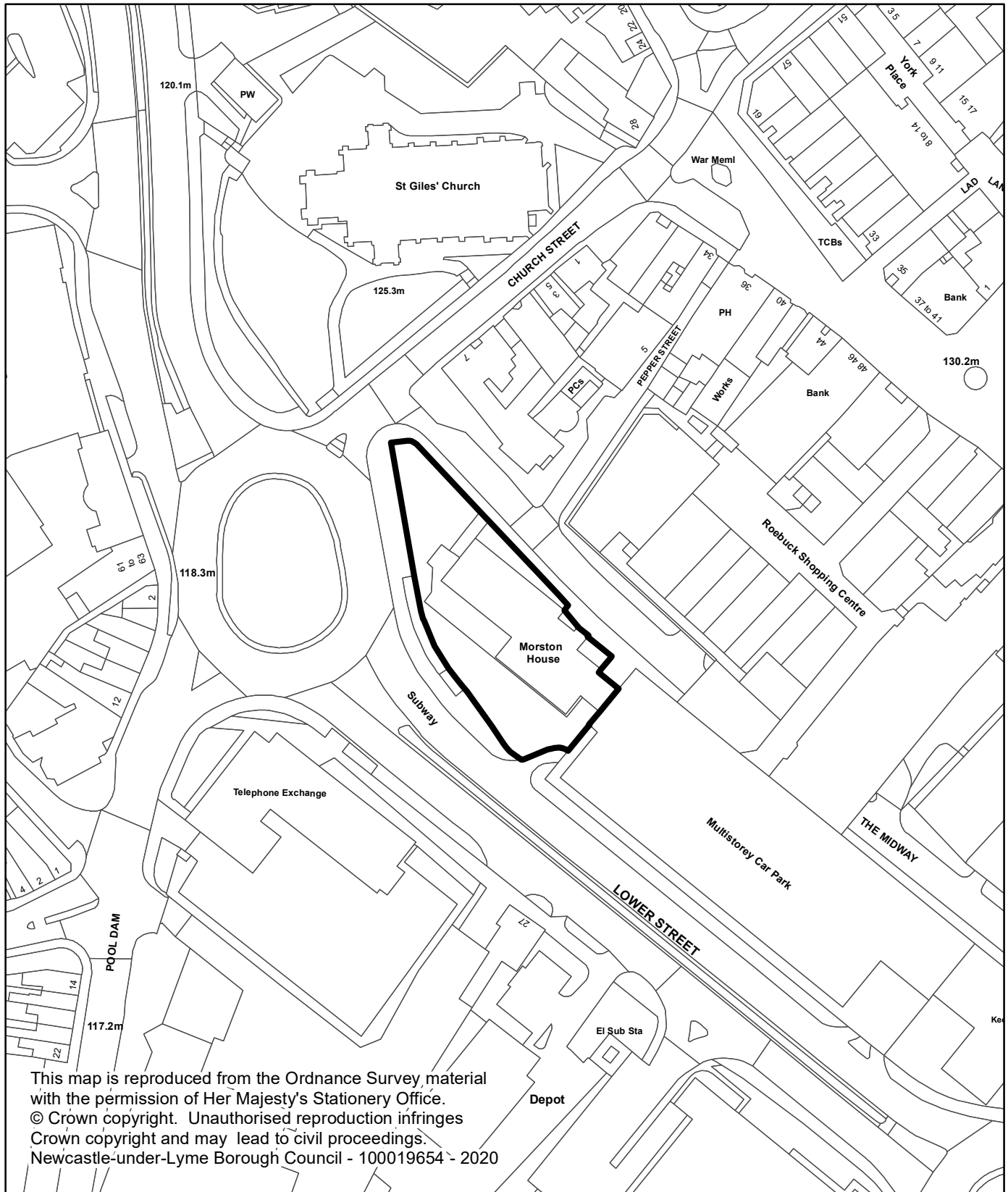
Date report prepared

3 June 2020

Morston House, The Midway - Conversion of Lower Ground and Upper Ground Floors for Student Residential Development of 31 No Studio Flats



□
20/00282/FUL



This page is intentionally left blank

THORP PRECAST, APEDALE ROAD, CHESTERTON
HARVEY THORP

20/00309/FUL

The application seeks full planning permission for a new industrial building and new cement silos at Thorp Precast Ltd, Apedale Road, Chesterton.

The application site is located within the Rowhurst Industrial Estate in the urban area of Newcastle, as designated on the Local Development Framework Proposals Map.

The proposed building would have a floor area of 2,312 square metres.

The 13 week period for the determination of this application expires on the 24th July 2020.

RECOMMENDATIONS

Subject to the receipt of no objections from the Chesterton Locality Area Partnership by the date of the Committee meeting that cannot be overcome through the imposition of conditions or, if no comments are received by that date, the Head of Planning be given the delegated authority to determine the application after the 23rd June 2020 as follows,

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

- 1. Standard Time limit for commencement of development**
- 2. Approved plans**
- 3. Materials and colour as per submitted plans**
- 4. Prior approval of external lighting**
- 5. Contaminated land remediation, including the risk to controlled waters**
- 6. Implementation of the recommendations of the Preliminary Ecological Appraisal**
- 7. Flood risk mitigation measures and Sustainable Drainage Strategy**

Reason for Recommendation

The proposed development would support economic growth on an established industrial estate and whilst the proposed building would be large, it would be seen within the context of existing buildings on the site and those of the wider industrial estate. All other matters can be addressed by suitably worded conditions to mitigate any impact and the proposed development is a sustainable form of development that accords with the development plan policies identified and the guidance and requirements of the National Planning Policy Framework and should be approved.

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

Officers have requested further information to be submitted to address concerns and information has been submitted for consideration and approval.

Key Issues

The application seeks full planning permission for a new industrial building and new cement silos at Thorp Precast Ltd, Apedale Road, Chesterton.

The application site is located within the Rowhurst Industrial Estate in the urban area of Newcastle, as designated on the Local Development Framework Proposals Map.

This application follows a previous planning permission for extensions to the adjacent building, granted under planning permission reference 16/00300/FUL. That permission was never fully implemented and the building now proposed is being progressed instead.

A separate full planning application for a proposed new crane area, storage areas, trailer parking area and boundary wall has been submitted (Ref. 20/00354/FUL) and will come before a future Committee.

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

- The principle of the development,
- The design and impact on the visual amenity of the area,
- Car parking and the impact on highway safety, and
- Environmental, ecology and flood risk impacts.

The principle of the development

The proposed development provides additional industrial floor space at Thorp Precast.

Policy SP2 of the Core Spatial Strategy supports economic development, diversification and modernisation of businesses within the area.

Paragraph 80 of the National Planning Policy Framework (NPPF) states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Thorp Precast is an established business in the area and this proposal would enable the further expansion of the company on an established industrial estate. Therefore, the principle of the development is acceptable and in accordance with local and national planning policy.

The design and impact on the visual amenity of the area

Paragraph 127 of the NPPF lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

The application site is located on the edge of an established industrial estate. The proposed building would occupy a fairly central position within the site and it would have a floor area of 2,312 square metres and an overall height of approximately 15 metres. It would be located immediately adjacent to an existing building known as 'Factory 2' (F2) which has an approximate height of 10.5 metres. Whilst the proposed building would have a greater height than the adjacent building (F2) it would be no taller than the extension previously approved under planning permission 16/00300/FUL.

The site is visible from Apedale Country Park but the proposed building would be viewed in the context of other buildings and structures on the site which include gantry cranes and enclosed gantry crane buildings. The proposed building would also be viewed within the context of the wider industrial estate. The materials would comprise metal cladding in a goosewing grey colour and while the building would have a functional appearance, it would resemble the appearance of other buildings on the site and within the wider industrial estate.

6 no. cement silos are proposed to the rear of the building. They would measure 16.2m in height and would be goosewing grey in colour. They would also be viewed in the context of the site and the wider industrial setting which has an array of existing silos and other similar structures.

The applicant has carried out various soft landscaping schemes within the site which would also help to soften the appearance of the proposed building.

The proposed development would provide a number of benefits to an established business within an industrial setting and on balance it is considered that the proposed building would not have a

significant adverse impact on the appearance of the area. It would therefore comply with the guidance and requirements of the NPPF and the principles of Policy CSP1 of the CSS.

Car parking and the impact on highway safety

Access to the site and the car parking areas would be via the existing access off Apedale Road.

The proposal would increase the industrial floor space at the site by 2,312 square metres to 12,722 square metres. Saved NLP Policy T16 advises that for that amount of floorspace, no more than 153 spaces should be provided (an additional 29 spaces). However, the application indicates that the number of spaces would not be increased from the existing 110 spaces available on site. The application also indicates that the number of employees would not increase.

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 Highway Authority raises no objections to the proposed development on the basis that the site has 110 car and 20 cycle parking spaces.

The site is located within a highly sustainable location and there are currently no obvious on street car parking problems. On this basis it is considered that the proposed building is unlikely to lead to or exacerbate an on street car parking problem that would result in highway safety implications. Therefore the proposal accords with the provisions of the development plan and the aims and objectives of the National Planning Policy Framework.

Environmental, ecology and flood risk impacts

The application is supported by a Flood Risk Assessment, Ecology Appraisal and a Phase 2 Ground Investigation Report, including a Coal Mining Risk Assessment.

As discussed, the site is on an established industrial estate in the urban area and the Environmental Health Division (EHD) has raised no concerns subject to conditions regarding contaminated land remediation and the control of external lighting. The Coal Authority has also raised no concerns.

The applicant has confirmed that waste disposal will be via the existing commercial waste contract that the business has and this is considered appropriate.

The Ecology Appraisal provides a number of recommendations and these can be secured by condition, as they were for the previous application, 16/00300/FUL.

The site is located within Flood Zone 3A, with part of the site also in Flood Zone 2 and concerns have been expressed by the Lead Local Flood Authority (LLFA) about the content of the submitted Flood Risk Assessment (FRA) which was prepared in 2016. This has resulted in an up to date (amended) FRA being submitted, along with sustainable drainage and maintenance plans.

Paragraph 165 of the NPPF advises that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the lead local flood authority; have appropriate proposed minimum operational standards; have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and where possible, provide multifunctional benefits.

The amended FRA concludes that the development site is not considered to be at risk from fluvial flooding nor at risk from groundwater flooding. The FRA does propose mitigation measures and it is considered that these can be secured by condition. Likewise an acceptable sustainable drainage and maintenance plan can be secured by condition. However further comments are awaited from the LLFA on the amended FRA.

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 SP2: Spatial Principles of Economic Development
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 E9: Renewal of Planning Permissions for Employment Development
Policy T16: Development – General Parking Requirements

Other Material Considerations include:

[National Planning Policy](#)

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

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

[Supplementary Planning Guidance/Documents](#)

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

Relevant Planning History

05/00999/FUL	Gantry crane	Permitted
07/00949/FUL	Proposed steel storage building	Permitted
11/00372/FUL	Proposed office building	Permitted
11/00561/FUL	Erection of palisade fence	Permitted
12/00765/FUL	Proposed manufacturing building	Permitted
13/00157/FUL	Proposed external storage area with mobile gantry crane and new vehicular entrance	Permitted
14/00140/FUL	Change of use of existing building, completion of cladding and extension to vehicular access	Permitted
16/00300/FUL	Extensions to building	Permitted
17/00688/FUL	Storage building in relation to the manufacture of large bespoke architectural panels	Permitted
17/00724/FUL	Cement silos	Permitted
18/00505/FUL	Erection of a Class B2 Manufacturing Building	Permitted
19/00426/FUL	Proposed enclosure to existing crane gantry	Permitted
19/00621/FUL	Extension to factory 1	Permitted

20/00354/FUL Proposed new crane area, storage areas, trailer parking area and boundary wall
Pending consideration

Views of Consultees

The **Highways Authority** raises no objections.

The **Environmental Health Division** raises no objections subject to conditions relating to external lighting and contaminated land remediation.

Staffordshire County Council as the **Lead Local Flood Authority** raises concerns about the submitted Flood Risk Assessment (FRA) and Drainage information and their comments are awaited on the revised FRA and drainage plans.

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

The **Environment Agency** raises no objections subject to a condition regarding contamination of groundwater.

The Council's **Waste Management Section** advise that it is unclear whether the building will be used for purposes which may lead to the creation of waste requiring a commercial waste contract.

The **Coal Authority** raises no objections.

The **Chesterton Locality Area Partnership** have been consulted and their response is awaited.

Representations

None received.

Applicant's/Agent's submission

The application is accompanied by a Flood Risk Assessment, an Ecology Report and a Phase 2 Ground Investigation Report, including a Coal Mining Risk Assessment.

All of the application documents can be viewed on the Council's website using the following link:
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/20/00309/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

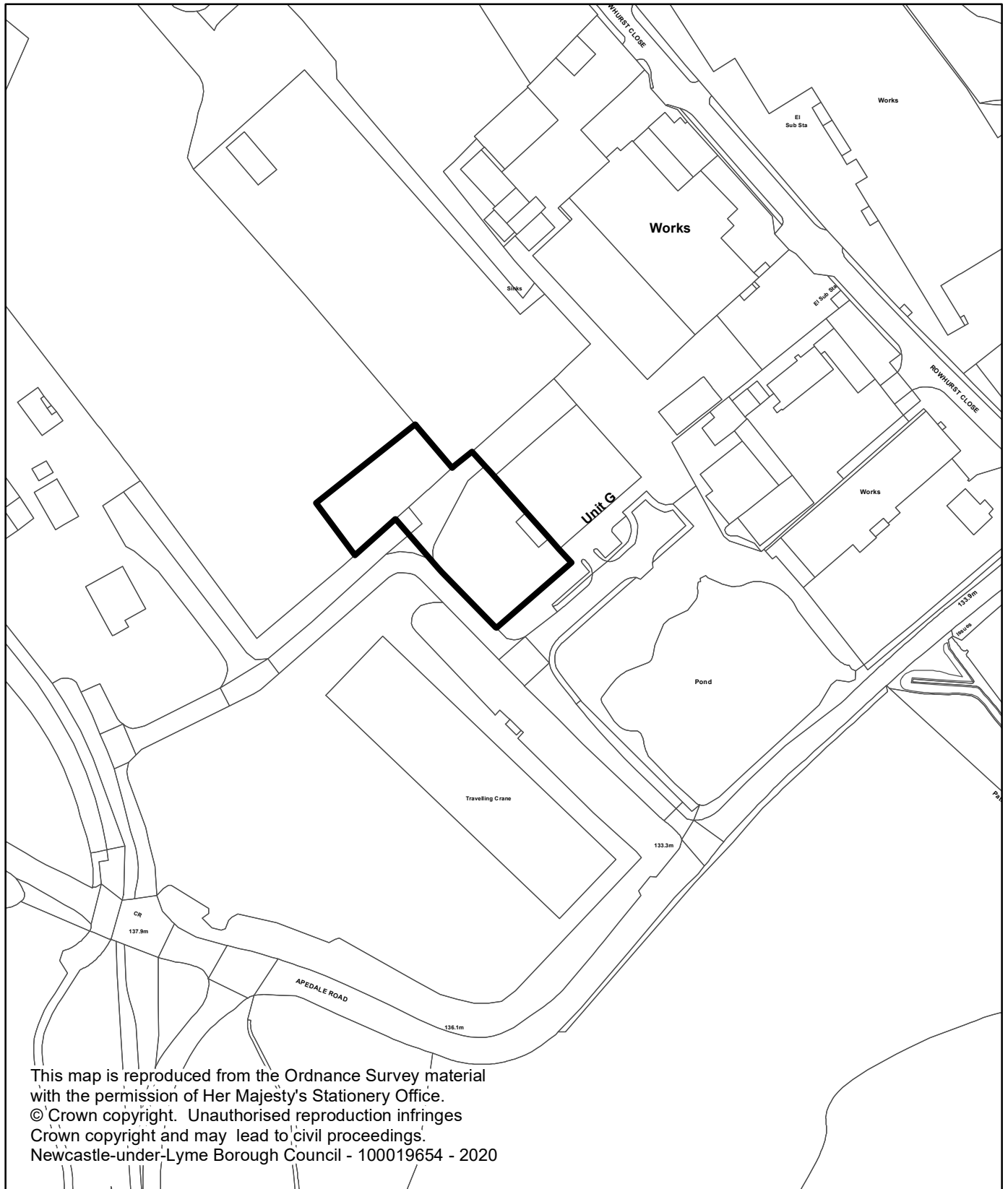
9th June 2020

This page is intentionally left blank

**Thorp Precast Ltd, Apedale Road, Chesterton -
Proposed new building adjacent to Factory 2,
proposed new cement silos**



20/00309/FUL



This page is intentionally left blank

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
23rd June 2020

Agenda Item 6

Application Ref. 20/00309/FUL

Thorp Precast, Apedale Road, Chesterton

Since the publication of the main agenda report the applicant has advised that the proposed silos will be used to store cements and dried sands. These materials will be used to mix Ultra High Performance Fibre Reinforced Concrete. This will be carried out inside the factory building using a purpose built and enclosed batching plant.

The **Lead Local Flood Authority (LLFA)** have confirmed that the revised information submitted goes a significant way to address the previous concerns. However, further details are still required to clarify and ensure that suitable surface water flows are maintained through the site.

Officers Comments

It is considered that condition 7 of the main agenda report will secure further acceptable details and flood risk mitigation measures, along with a Sustainable Drainage Strategy. The LLFA will also have a further opportunity to comment on such proposals.

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

This page is intentionally left blank

APEDALE HERITAGE CENTRE, APEDALE COUNTRY PARK
DR JOHN ROWLANDS

20/00308/FUL

The application is for full planning permission for the erection of a steel storage building within the grounds of the Apedale Valley Light Railway.

The site is located within the open countryside and an Area of Landscape Regeneration. It is also within the Green Belt, as identified within the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expires on the 22nd June but the applicant has agreed to an extension of time until the 26th June.

RECOMMENDATIONS

PERMIT subject to conditions relating to the following matters:-

- 1. Time limit condition**
- 2. Approved Plans**
- 3. Materials**
- 4. Prior approval of external lighting**

Reason for Recommendation

Whilst the proposed development represents inappropriate development within the Green Belt, and it is acknowledged that there would be harm to openness, there are considered to be very special circumstances to justify the development. The building would be of significant benefit to the Apedale Valley Light Railway, an established leisure and recreation attraction that is of local and national heritage significance. The development would provide appropriate facilities for the storage of heritage rail artefacts and would contribute to the vitality of this use. It is therefore considered that very special circumstances exist that justify approval of planning permission. In all other respects the development accords with local and national planning policy.

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

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

Key Issues

Full planning permission is sought for the erection of a steel building within the grounds of the Apedale Valley Light Railway. The application site is located within the open countryside and an Area of Landscape Regeneration. It is also within the Green Belt, as identified within the Local Development Framework Proposals Map.

The application is a re-submission of a recently approved scheme (Ref. 20/00003/FUL). The alterations to the application comprise revisions to the siting and scale of the building.

It was concluded under the previous application that despite representing inappropriate development in the Green Belt, very special circumstances existed that outweighed any resulting harm to the openness of the Green Belt. As the use of the building would remain unaltered, and it would continue to be used for the storage of heritage railway artefacts and associated equipment, these same very special circumstances remain applicable to this revised application. It is therefore not considered necessary to revisit the principle of the development with regards to the location of the site in the Green Belt.

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

- Design of the proposal and its impact on the appearance of the Community Park and Area of Landscape Regeneration, and
- Implications with regards to coal mining and land instability

Design of the proposal and its impact on the appearance of the Community Park and Area of Landscape Regeneration

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

Paragraph 127 of the framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

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

The proposed building would be sited to the north-east of the main Heritage Centre building. The structure would be 7m northwards of the location approved in the previous scheme. Despite this change, the building would remain well screened from wider public vantage points and would be sited in a practical location to assist with the maintenance and function of the Light Railway.

The overall form and appearance of the building would be similar to that already approved. It would maintain a functional appearance driven by the practical requirements of the building. The main alteration is to the scale of the building with the depth being reduced from 42m to 24m whilst the width would increase from 9.1m to 10.6m.

The material and colour finish of 'juniper green' are considered to be appropriate for both the function of the building and in relation to the appearance of the wider landscape. As such the revisions to the appearance of the building are not considered to be harmful to the appearance of this Area of Landscape Regeneration.

The Environmental Health Division (EHD) has raised no objections to the proposal but has noted that given the nature of the area and the significance of the items to be stored within the building, it is likely that it will be required to be illuminated externally for either security or safety purposes. Due to the inherently dark nature of the surrounding area during the night, EHD has recommended a condition to secure full details of any external lighting prior to its installation. Such a condition is considered to be reasonable and appropriate.

The development is therefore seen to comply with Policy N22 of the Local Plan, Policy CSP1 of the Core Spatial Strategy and the requirements of the NPPF.

Implications with regards to coal mining and land instability

The application site is identified as falling within a Development High Risk Area with regards to former coal mining activities. The application is supported by a Ground Investigation Report, Coal Mining Report and Coal Mining Risk Assessment (CMRA).

The initial consultation response from the Coal Authority sought clarification from the author of the CMRA as to whether previous conclusions would still be applicable to the revised siting of the building. However, further comments received on the 22nd May identify that the submitted report details that "Probable underground coal mining at shallow depth is not considered to present an instability risk to the development. There is no further action required". As such The Coal Authority are satisfied that the development poses no risk and so raises no objections to the proposal. They have also confirmed that no pre-commencement conditions are required in relation to further site investigations in light of the revised siting and conclusions of the CMRA.

Therefore the development is considered to comply with the requirements of the NPPF.

APPENDIX

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

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

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

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

Policy S3: Development in the Green Belt
Policy N22: Areas of Landscape Regeneration
Policy C13: Additional Facilities at Apedale Community Country Park

Other Material Considerations include:

National Planning Policy

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

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

Supplementary Planning Guidance/Documents

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

Relevant Planning History

98/00381/FUL - Development of mining museum including erection of associated buildings and high gauge railway – Approved

06/00600/FUL - A. Full planning permission for the use of land as a Railway Heritage Museum, the erection of a storage building for railway artefacts, the construction of a narrow gauge railway line, platforms and associated works. B. Outline planning permission for the erection of a Railway Heritage Museum building and water storage towers – Approved

09/00493/REM - Details of the erection of a railway heritage museum building and water storage tower granted outline planning permission 06/00600/FUL, and associated landscaping – Approved

20/00003/FUL - Erection of a steel building for the storage of railway artefacts including rail vehicles – Approved

Views of Consultees

The **Environmental Health Division** raises no objections subject to a condition to control the installation of external lighting.

The **Coal Authority** raises no objections to the application.

The **Staffordshire Police Crime Prevention Design Advisor** draws the applicant's attention to options that should be considered to reduce and prevent anti-social behaviour and any resulting damage to the application site.

The **Staffordshire County Minerals Planning Authority** had no comments to make on the proposal.

No comments were received from **Staffordshire Wildlife Trust** and given that the period for comment has ended, it must be assumed that they have no comments to make.

Representations

Four representations have been received in support of the application with their comments summarised as follows;

- Proposal will enhance the site and provision of storage for heritage artefacts
- It will contribute towards the preservation of the industrial heritage and history of the local area
- The Railway is a significant local and national visitor attraction
- Proposal will enhance Apedale Community Country Park.

Applicant's/Agent's submission

The submitted plans and supporting documents can be viewed on the Council's website using the following link: <https://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/20/00308/FUL>

Background papers

Planning files referred to
Planning Documents referred to

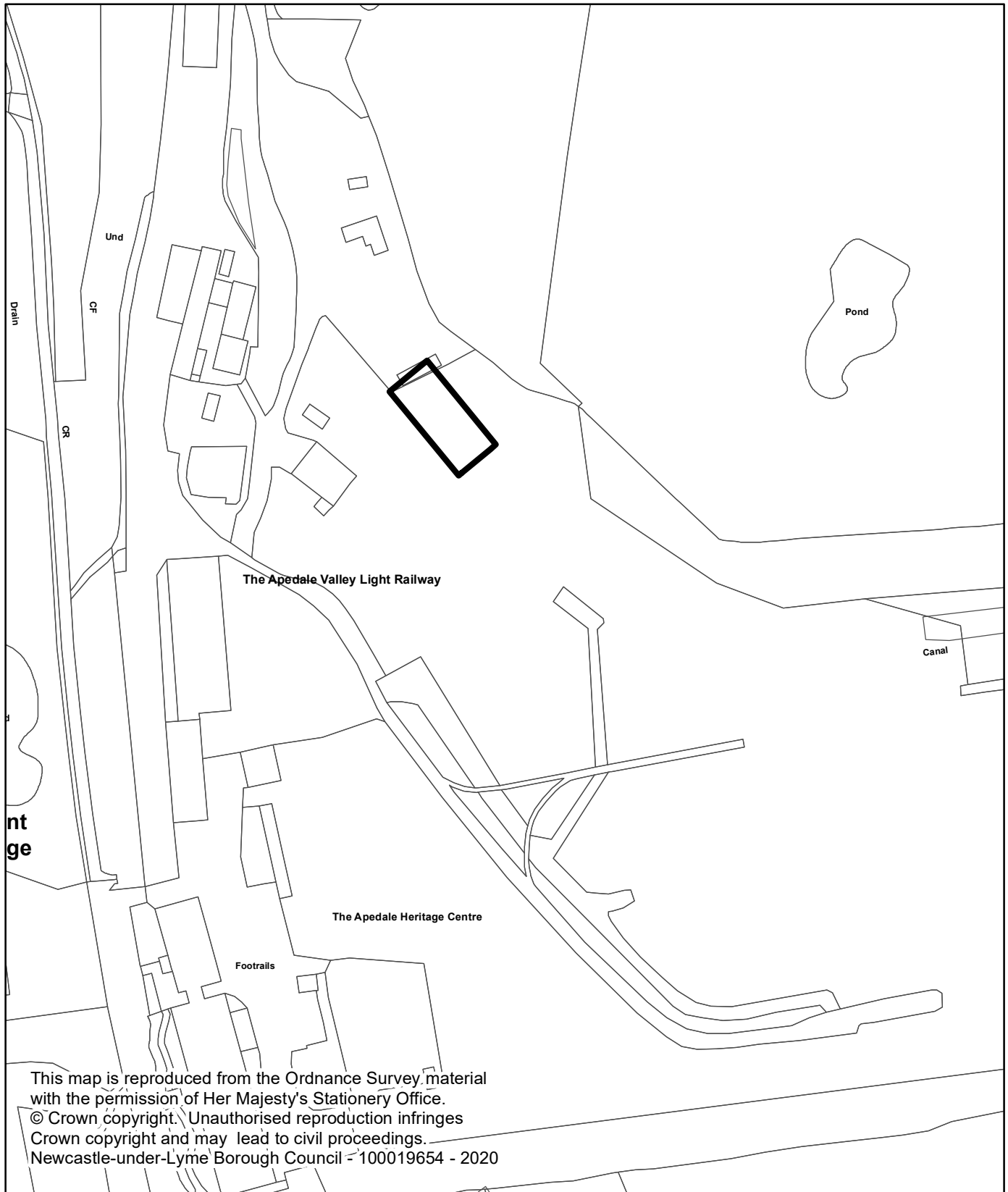
Date report prepared

2nd June 2020

**Apedale Heritage Centre, Apedale Country Park,
Apedale Road - Erection of a steel building for the
storage of railway artefacts including rail vehicles** □



20/00308/FUL



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office.
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings.
Newcastle-under-Lyme Borough Council - 100019654 - 2020

This page is intentionally left blank

HALF YEARLY REPORT ON PLANNING OBLIGATIONS

Purpose of the Report

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

Recommendation

- a) That the report be noted

Introduction

The last half yearly report on planning obligations was provided to the Committee at its meeting on the 7th January 2020 and covered the period between the 1st April to the 30th September 2019. This report now covers the period between 1st October 2019 to 31st March 2020 and sets out planning obligations which have been secured during this 6 month period, obligations which have been amended either by application or by agreement, works that are known to have been funded during that period in whole or in part by planning obligations, contributions that have been received as a result of planning obligations, and compliance with their requirements. Members should however note that the information on payments received and funded expenditure may be incomplete.

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

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

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

This half yearly report may be the last in this format.

Table 1 - Developments where planning obligations by developers/owners of land have been entered into (1st October 2019 to 31st March 2020)

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

Application reference and date of agreement or undertaking	Location of development	Development	Purpose of the obligation(s) entered into by developers/owners	The level of contribution(s) payable when development trigger achieved
19/00036/FUL 3 rd September 2019 <i>**not included in last report**</i>	Land Off New Road, Madeley	Proposed residential development of 32 residential dwellings with site access, car parking, landscaping and all associated engineering works.	25% on-site Affordable Housing	Not Applicable
			Off-site Public Open Space Provision	£178,528 (Index Linked)
			Secondary Education Provision	£66,488 (Index Linked)
18/00714/FUL 19 th December 2019	The Brighton, Sneyd Terrace, Silverdale	Change of use and refurbishment of former care home (C2) into apartments (C3) for over 55s independent living. The detailed proposals are for 16 new one beds and 3 two bed apartments.	Off-site Public Open Space Provision	£93,727 (Index Linked)
			Financial Viability Re-Appraisal Mechanism	Not Applicable
19/00614/FUL 30 th January 2020	Ashfields Grange Sheltered Housing Scheme, Hall Street, Newcastle-Under-Lyme	Demolition of all existing buildings and the development of 89 supported living apartments (C3 use class), along with communal facilities,	Off-site Public Open Space Provision	£85,799 (Index Linked)
			Travel Plan Monitoring	£2,407 (Index Linked)

		car parking, landscaping and amenity space.		
			Financial Viability Re-Appraisal Mechanism	Not Applicable
18/00916/FUL 7 th February 2020	Kidsgrove Working Mens Club & Institute, Hardingswood Road, Kidsgrove	Full planning permission for the demolition of existing buildings and construction of retail store (2,206sqm GEA) (Use Class A1) and associated means of access, parking, landscaping and associated infrastructure works.	Travel Plan Monitoring	£2,407 (Index Linked)
			Signal Controlled Pedestrian Crossing Provision	£10,000 (Index Linked)
18/00921/OUT <i>26th February 2020 as part of the planning appeal which was subsequently dismissed and as such the obligation has not taken effect</i>	Land Adjacent To Park House, Dales Green Road, Mow Cop	Erection of 6 dwellings	100% on-site Affordable Housing	Not Applicable

Table 2 – Developments where planning obligations by developers/owners of land have been agreed to be modified or discharged by application or by agreement (1st October 2019 to 31st March 2020)

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

Application Number (if applicable) & Reference Number of original related permission and date of modified /discharged agreement	Location of Development	Application	Decision
08/00555/FUL 25 th October 2019	Madeley Village Hall And Lea House, Furnace Lane, Madeley	Sixty-three two bedroom flats Extra Care Scheme linked to new Madeley Community building, replacing existing residential care home (Lea House) and existing village hall and Scout hut.	Deed of Variation to amend the clauses related to liability to future mortgagees.
13/00970/OUT 17 th December 2019	Land North Of Pepper Street, Keele	Residential development (maximum of 100 dwellings)	Deed of Variation to revise the level of affordable housing to 6% and a Financial Viability Re-Appraisal Mechanism
16/01106/FUL 18 th December 2019	Former Bristol Street Ford Garage, London Road, Newcastle Under Lyme	Redevelopment of the site for 499 apartments (comprising of student accommodation)	Deed of Variation that secures revised financial contributions totalling £300,000 and a Financial Viability Re-Appraisal Mechanism.

Table 3 - Development where financial contributions have been made (1st October 2019 to 31st March 2020)

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

Permission reference	Location of development	Development	Purpose of the obligation(s) subject of contributions received	Contribution made and to whom
18/00693/FUL	Orchard House, Clayton Road, Newcastle Under Lyme	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over.	Travel Plan Monitoring Fee	£2,360 SCC
14/00284/FUL	Priory Day Centre, Lymewood Grove, Newcastle Under Lyme	Demolition of the redundant day care centre and the construction of 13 new single storey dwellings	Public Open Space Improvements	£21,842.10 NBC
16/00902/DEEM 4	Land Off Deans Lane And Moss Grove, Red Street, Newcastle Under Lyme	Outline Planning Consent for the development of up to 50 dwellings	Public Open Space Improvements	£148,193.15 NBC
			Secondary Education Places	£99,732.00 SCC

Table 4 - Development where financial contribution have been spent. (1st October 2019 to 31st March 2020)

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

Permission associated with the planning obligation as a result of which funding was received	Location of development referred to in the permission	Development	Amount received as a result of planning obligation and purpose of contribution as indicated in the planning obligation	How the contribution has been spent
12/00512/FUL	Thistleberry House Residential Home, Keele Road, Newcastle Under Lyme	Demolition of existing Thistleberry House building, erection of 37 dwellings and creation of new access off Keele Road	Public Open Space contribution of £109,034.58	£6899.12 - Thistleberry Parkway Footpath Improvements

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

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

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

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

				<p>The final report of the DVS has been provided and is being considered.</p> <p>In October 2018, prior to the referral of the case to the District Valuer the developer requested that they be permitted to make payments in monthly instalments to settle the debt. This request is yet to be reported to the Committee because until the reappraisal has been assessed and agreed the total sum owing is unknown. No payments appear to have been made to date</p>
18/00693/FUL	Orchard House, Clayton Road, Newcastle Under Lyme	Specialist accommodation for the elderly comprising of 75 Residential apartments with care, communal facilities, parking and associated private amenity space for persons aged 55 and over.	Non-compliance with obligation requiring payment of financial contributions - first instalment of £103,341 (index linked to public open space.	<p>The first instalment of the public open space contribution was due within three months of the commencement date of the approved development.</p> <p>It is believed that the commencement date was in early 2019 and so the payment is at least 12 months overdue.</p> <p>The applicant has been approached about the non-payment and advises that they are not in a position to make payment at this moment in time but they hope to resolve the matter as soon as possible.</p> <p>In the current economic climate your officers do not consider that it is appropriate to take formal enforcement action. The overdue payment is subject to interest from the date when the trigger for payment was achieved and this will be applied when the developer</p>

				is in a position to make the payment.
--	--	--	--	---------------------------------------

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

Purpose of the Report

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

Recommendations

a) That the report be noted

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

Introduction

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

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

This report covers the period between 14th April 2020 (when the Committee last received a similar report) and the date of the preparation of this report (11th June 2020).

In the period since the Committee's consideration of the last quarterly report, section 106 obligations have not been entered into by the dates referred to in Committee resolutions, or in subsequent agreed extensions, and extensions have been agreed with respect to some 3 applications.

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

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

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

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

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

Details of the applications involved are provided below:-

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

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

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

The 8th March 2018 date was not achieved and whilst further ongoing delays have occurred your Officer has considered it appropriate to agree further extensions of time within which the Section 111 agreement can be secured. However, it appeared that the applicant did not wish to progress this matter and a letter was therefore sent to the applicant, care of their agent, indicating that it was intended to treat the application as 'finally disposed of' under Article 40 of the town and Country Planning (Development Management Procedure) (England) Order 2015 and remove it from the Statutory Register of outstanding applications for planning permission. The letter stated that as the case has now expired and no appeal had been made against non-determination the application would be disposed of after 21 days of the letter. No comments have been received in the 21 day period and as such the application is now deemed withdrawn some 134 weeks since receipt of the application.

(2) 4 Meadows Road Kidsgrove 18/00889/FUL

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

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

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

The applicant eventually withdrew the planning application on the 22nd May 2020 some 85 weeks from receipt.

(3) Compound C and Compound E, Lymedale Cross 18/00997/FUL

This application for full planning permission for a warehouse unit and 7 no. business starter units came before the Planning Committee at its meeting on the 3rd December (at around week 31). The resolution of the Committee required an obligation to secure a travel plan monitoring fee of £2,407. The resolution included the requirement that the agreement should be completed by the 8th February.

The agreement was not completed by the 8th February due to a number of delays on behalf of the Council but a draft S106 obligation is now in circulation and nearing completion. On this basis your Officer has agreed to extend the period within which the S106 obligation can be completed to the 29th June 2020.

Some 56 weeks have now passed since receipt of the application.

Date Report prepared

11th June 2020

This page is intentionally left blank

APPEAL BY THE SCHOOL GOVERNORS OF NEWCASTLE-UNDER-LYME SCHOOL AGAINST THE DECISION OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR AN EXTENSION TO THE EXISTING SCHOOL SPORTS CENTRE TO FORM A NEW SPORTS HALL INCLUDING THE DEMOLITION OF EXISTING OUTBUILDINGS AND THE FORMATION OF A NEW CAR PARK WITH A NEW VEHICULAR ACCESS POINT OFF THE HIGHWAY AT NEWCASTLE-UNDER-LYME SCHOOL, MOUNT PLEASANT, NEWCASTLE-UNDER-LYME

<u>Application Number</u>	19/00042/FUL
<u>LPA's Decision</u>	Refused by Planning Committee contrary to Officer's recommendation on the 29th May 2019
<u>Appeal Decision</u>	Allowed
<u>Costs Decision</u>	Granted
<u>Date of Decisions</u>	18th May 2020

Appeal Decision

The Inspector identified the main issue to be whether the proposal would preserve or enhance the character or appearance of the Stubbs Walk Conservation Area (CA).

The Inspector concluded that the proposed building would be a high quality and contemporary addition to the CA. Along with the recladding of the existing sports hall, the development would materially improve the visual quality of the southern part of the school site. The simple frontage to the Park using facing brick and timber boarding would not harm the spaciousness or ambience of the Park. In this context, it was concluded that the proposed sports hall would not affect the historic or architectural significance of the CA as a whole and would preserve its character and appearance. Accordingly, no conflict was found with Policies CSP1 and 2 of the Core Spatial Strategy and Local Plan Policies B9, 10 and 14.

Costs Decision

The Inspector acknowledged that the Members of the Planning Committee do not have to accept the professional advice and recommendation of their officers and that the effect of a proposal on the character or appearance of a Conservation Area is a material consideration. Therefore, concluding that the proposal would have an unacceptable effect is not, on its own, unreasonable behaviour.

A local planning authority (LPA) is at risk of an award of costs by refusing planning permission when it clearly fails to have regard to Government policy. In this case, the approach and policy to a decision of this nature is contained in PPG and the National Planning Policy Framework (Framework). PPG indicates that what matters in assessing whether a proposal might cause harm, is the impact on the significance of a designated heritage asset. Where potential harm to designated heritage assets is identified, it needs to be categorised as either "less than substantial harm" or "substantial harm", in order to identify which policies in the Framework apply. Which category applies should be explicitly identified and the extent of the harm should be clearly articulated. Thereafter, depending on the category of harm, paragraphs 195 or 196 of Framework require any harm to a designated heritage asset to be weighed against the public benefits of the proposal.

Here, the only record of the Members' approach to the appellants' application and the professional assessment and recommendation of planning officer are contained in the published minutes of the meeting. The formal record is sparse and records that a Councillor "...spoke on this application" and 2 Councillors proposed and seconded the reason for refusal. There is no record of the nature or extent of the discussion to show that Members were either advised of or considered the relevant PPG and applied Framework paragraph 196. This latter requirement is of importance given the Design, Access and Heritage

Statement contained substantial evidence on the potential public benefits of the scheme. Moreover, there is nothing in the LPA's response to the appellants' application for costs other than reporting that the Members had all the information necessary to assess the impact of the proposal and undertake a proper planning balance to indicate that the Members undertook the balance required by Framework paragraph 196.

Accordingly, the Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a full award of costs is justified.

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

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00042/FUL>

Your Officer's comments

Both Officers and Members need to learn from this decision. In circumstances where the decision is contrary to recommendation, and therefore the report cannot be relied upon to expand upon that decision, the potential harm to a designated asset, where found, must be explicitly identified as either "less than substantial harm" or "substantial harm" and the extent of the harm should be clearly articulated in any reason for refusal. Depending on the category of harm, any harm must be weighed against the public benefits of the proposal and this balancing exercise also referred to in the reason for refusal.

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

PLANNING COMMITTEE

Report Title: Local Planning Enforcement Plan

Purpose of the Report

To update Planning Committee regarding the revision of the Local Planning Enforcement Plan. The Plan was presented to and approved on the 10th June by Cabinet.

Recommendation

For Committee to note the report.

Background

The Councils Planning service regulates development within the Borough. Development can constitute physical building works ranging from the construction of small extensions and other small works through to major schemes such as the construction of new factories and housing estates. In addition, development can comprise the change of use of land or buildings, for example the conversion of an office building to a block of flats.

A large proportion of development work in the Borough requires approval through the granting of planning permission, although some smaller works can be undertaken without need to apply for consent from the Local Planning Authority (LPA) if they fall within the parameters of that which is permitted pursuant to the Town and Country Planning (General Permitted Development) Order 2015. The legislation on permitted development is complex, in part because it addresses nearly all forms of development from household extensions through to infrastructure projects including highway and railway works.

Despite these opportunities existing for developers to secure approval through the appropriate legislation, there has historically been a low level of development in Borough that does not benefit from consent either through an application to the Council or through permitted development. This work is considered to be unauthorised and therefore the LPA can consider whether enforcement action is necessary to remedy any breach that has occurred.

Whilst the Council has a range of powers to enforce against unauthorised development, the Government, through paragraph 207 of the National Planning Policy Framework (NPPF), states that enforcement action is discretionary and LPA's should act proportionately in responding to suspected breaches of planning control.

The NPPF also recommends that Local Planning Authorities publish a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

The Council has therefore drafted a Local Enforcement Plan in accordance with national guidance and sought consultation on this document.

The key sections of the Local Planning Enforcement Plan deal with the following matters:
Defining what constitutes breach of planning control and the different forms a breach may take including retrospective and intermittent breaches

- Identifying harm and its impacts
- A scoring matrix to assist in quantifying harm
- Prioritisation of enforcement cases

- Methods of communication with the Council including timescales
- Different routes to taking enforcement action including prosecution.

The document is clear that at the heart of the consideration of an enforcement case is the amount of harm, the breach of planning control may cause and whether taking enforcement action would be expedient. This harm may manifest itself in detriment to the amenity or privacy of neighbours, environmental harm such as protected habitats or species, damage to the character and appearance of the surrounding area or conflict with established national and local planning policies.

In instances where it is considered the breach is minimal, the option exists for the LPA not to take action. Part of this assessment is consideration of whether planning permission would be likely to be granted should a retrospective planning application be submitted to regularise the unauthorised works

In instances where it is considered the breach is more significant and creates a planning harm, the Plan sets out the steps the Local Planning Authority will take to investigate a matter and seek to resolve the planning breach.

The consultation responses sought greater clarification on the score harming criteria, and the legal proceedings following the issue of a formal notice. The report has therefore been amended to address these issues. It also gave opportunity to amend some of the links to the website within the document.

The key changes to the draft LPEP are:

- Some alterations to the score harming criteria titles for greater clarity,
- Setting of a 5-day deadline to register and acknowledge new complaints
- For medium priority cases change the visit time from 20 to 10 working days
- Insertion of a paragraph about the council not tolerating physical or verbal abuse of its planning enforcement staff.
- Updated the website links for registering of complaints
- Clarification using examples for the progression of cases and use of formal notices.
- Creation of a resident's guide.

The residents guide will be a useful tool to manage the expectations of complainants with regards to the scope of the Council planning enforcement powers and the timescales involved. It also includes a section for residents who receive a notice or complaint visit to increase their understanding of the process. This is to supplement the main document which contains a greater degree of technical information relating to planning enforcement.

The proposal to adopt the Local Planning Enforcement Plan would comply with national guidance and in doing so assist in ensuring any future action taken by the Local Planning Authority would be carried out in accordance with established best practice.

It is good practice to have a robust Local Enforcement Plan in place to support the Council's use of enforcement powers in the Borough and to ensure that development is undertaken in accordance with the adopted development plan.

Reasons for Proposed Solution

The proposed update to the Plan will help ensure that the Council has a robust set of measures in place in order to effectively undertake enforcement action across the Borough in a timely and expedient manner.

Failure to take undertake appropriate investigation and assessment of potential breaches of planning control can result in complaints against the Council escalating to the Local Government and Social Care Ombudsman Notable or repeat failures to deliver an efficient enforcement service may result in criticism by the Ombudsman about the operation of the service and therefore subsequent reputational harm.

Whilst there are staffing costs associated with the resourcing of the enforcement service and the processing of any action taken including prosecution and if necessary direct action, the procedures set out in the Local Planning Enforcement Plan do not expose the Council to any additional costs.

Through setting out clear steps for undertaking enforcement action, the risks of abortive action should be minimised hence reducing the potential for unnecessary costs to be incurred by the Council..

Other Options Considered

Consideration has been given to not updating the Local Enforcement Plan but this would leave the Council in a weaker position with regard to any future enforcement action as the measures set out in the 2009 plan were no longer appropriate given the emergence of new planning policy guidance notably the 2019 NPPF.

List of Appendices

Appendix 1 – Proposed Local Planning Enforcement Plan.

Background Papers

National Planning Policy Framework

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

National Planning Policy Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Newcastle Under Lyme Planning Enforcement Website

<https://www.newcastle-staffs.gov.uk/all-services/planning/planning-enforcement>

Existing Newcastle Under Lyme Planning Enforcement Policy

<https://www.newcastle-staffs.gov.uk/sites/default/files/IMCE/Planning/Planning%20Enforcement%20Policy.pdf>

This page is intentionally left blank



Planning & Development

Local Planning Enforcement Plan

June 2020

DOCUMENT STATUS

CURRENT STATUS: DRAFT

VERSION: 1.0

DATE: JUNE 2020

PREPARED BY: Shawn Fleet: Head of Planning & Development

DATE ADOPTED BY COUNCIL: ...

APPROVED BY: Planning Committee: ...
Cabinet: ...

DATE OF NEXT REVIEW: ...

Contents

1.0 EXECUTIVE SUMMARY	3
2.0 INTRODUCTION AND OVERALL OBJECTIVES	5
3.0 SERVICE STANDARDS	7
4.0 THE PRINCIPLES OF PLANNING ENFORCEMENT	9
5.0 PLANNING ENFORCEMENT LEGISLATION	11
6.0 WHAT IS DEVELOPMENT?	12
7.0 WHAT IS A BREACH OF PLANNING CONTROL?	13
8.0 PLANNING HARM	15
9.0 ENFORCEMENT PRIORITIES	17
10.0 PROCEDURES	19
11.0 ANONYMOUS ENFORCEMENT ENQUIRIES	21
12.0 HOW TO SUBMIT AN ENFORCEMENT COMPLAINT	22
13.0 METHODS OF COMMUNICATION	23
14.0 RESPONSE PROCEDURE	24
15.0 THE EXPEDIENCY TEST	26
16.0 IMMUNITY FROM ENFORCEMENT ACTION	27
17.0 HOW THE COUNCIL RESPONDS TO DIFFERENT TYPES OF BREACH	28
18.0 PLANNING ENFORCEMENT OPTIONS	31
APPENDICES	34
APPENDIX 1: ENFORCEMENT TOOLKIT	35
APPENDIX 2: REVIEW OF THE LOCAL ENFORCEMENT PLAN AND COMPLAINTS	43
APPENDIX 2: CONTACTING THE COUNCIL	44
APPENDIX 3: REFERENCE SOURCES	45
APPENDIX 4: ENFORCEMENT PLAN RESIDENTS GUIDE	46
APPENDIX 5: ENFORCEMENT LOG SHEETS	62

1.0 EXECUTIVE SUMMARY

This is our framework for dealing with any alleged breaches of planning control received by the Council. Planning enforcement has a vital role in making the Borough a better place for those living, working or investing in the Borough.

The Governments Planning Practice Guidance (PPG) published on-line since March 2014 provides advice on the role of planning enforcement in the section Ensuring Effective Enforcement. This guidance states that the preparation and adoption of a local enforcement plan is important because it:

- Allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- Sets out the priorities for enforcement action, and which will inform decisions about when to take enforcement action;
- Provides greater transparency and accountability about how the local authority will decide if it is expedient to exercise its discretionary powers;
- Provides greater certainty for all parties engaged in the development process

This Local Enforcement Plan has been the subject of public consultation and report to the Councils Planning Committee and Cabinet before adoption and is intended to meet these criteria. The plan sets out the objectives of the Planning Enforcement Service and the system and principles for the exercise of the relevant statutory powers. The local context in the plan includes the natural and historic environment. References to “the Act” mean the Town and Country Planning Act 1990, as amended. Other legislation specifically referred to relates to the Equalities Act 2010, Listed Buildings and Hedgerows and High Hedges.

Newcastle Under Lyme Borough Council is the responsible Local Planning Authority for the enforcement of planning control within the Borough.

There are a range of powers to be exercised in the public interest where a breach of planning control is under consideration. The planning system exists to protect the environment and ensure that development takes place in accordance with national regulatory requirements and is planned and managed to achieve social, economic and environmental objectives. This Plan seeks to promote procedures which will manage enforcement issues in an appropriate way for Newcastle, Kidsgrove, our villages and the rural areas of the Borough.

Effective enforcement relies to a large degree on efficient and timely communication. Possible breaches of planning control; unauthorised works/activities/advertisements on land, buildings, trees or hedgerows are brought to notice by members of the public, Council Officers in different departments and well as by Planning and Enforcement Officers. An efficient system needs the Council’s website to be a helpful source of reference and advice with a robust reporting system which is transparent about the decisions taken. References to the PPG section “Ensuring Effective Enforcement” are given particularly in Appendix 1 which describes the options and procedures available to tackle possible and actual breaches of planning control in a proportionate way. The plan

is published on the Council's web site with an on-line form for reporting planning issues and enforcement complaints.

The Plan sets out standards and proposed priorities restating and updating principles of good practice enforcement advocated by the Government but adapted to local circumstances.

2.0 INTRODUCTION AND OVERALL OBJECTIVES

The National Planning Policy Framework (NPPF) March 2012 advises that Local Planning Authorities (Local Planning Authorities) should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. The Council's previous Planning Enforcement Policy was first published in February 2009 and has been reviewed following changes to national policy/guidance for enforcement and operational changes. The Local Enforcement Plan (LEP) also confirms the current planning enforcement powers available to the Council.

The Government also published guidance on planning enforcement contained within the Planning Practice Guidance in March 2014 which was subsequently updated. Further information which can be found via the following web site:

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

The National Planning Policy Framework states:

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”

In assessing any enforcement case, the Council will give consideration to the national planning policy framework (NPPF) and supported by the Planning Practice Guidance, plus policies set out in the Council's Development Plan. These documents are subject to review and this plan will be reviewed in light of any new adopted policies as they emerge.

Effective control over unauthorised development protects the environment, the local amenity of residents and other people, promotes confidence in the planning system and helps to revitalise our Borough. Enforcement is an essential part of the development management process and its integrity depends on our readiness to take proportionate enforcement action. Planning enforcement action is also discretionary; the Council must judge each case and decide if it is expedient to act (expediency is a crucial test in the legislation and its meaning is explored on page 26).

In deciding whether to take enforcement action we must have regard to local and national planning policies, in particular, the advice set out in the Council's Development Plan (see above), and Government guidance.

Much of what the Council deals with comes to us through a range of planning enforcement complaints. All planning enforcement complaints will be assessed and prioritised according to the criteria set out on page 28.

The Council is committed to the Regulators Code published by the Department for Business Innovation and Skill in April 2014 which has replaced the Government's Enforcement Concordat. This document sets out a range of good practice enforcement policies and procedures to deliver best practice in regulatory and enforcement work by public bodies.

3.0 SERVICE STANDARDS

The Council's existing practices have sought to achieve the principles of good enforcement practice. The following standards reflect the overarching principles the Council has adopted with regard to inspecting and if appropriate, pursuing enforcement action. These five standards are set out in the Regulators Code

1. Regulators Should Carry Out Their Activities In A Way That Supports Those They Regulate To Comply And Grow

The purpose of the planning enforcement process is not to punish those who find themselves working outside of the planning framework and the policies of the development plan but to ensure inappropriate development does not cause harm. The Council will continue to work with individuals and businesses in a manner that assists people in understanding the planning systems and how they can best meet their aspirations.

2. Regulators Should Provide Simple And Straightforward Ways To Engage With Those They Regulate And Hear Their Views

We aim to provide information and advice in plain language on the rules and adhere to government guidance. We aim to publish on the website supporting technical detail and links to government guidance. We will endeavour to keep as much as possible in the public domain whilst protecting confidentiality of those who are reporting concerns and possible breaches of the regulations or planning conditions.

3. Regulators Should Base Their Regulatory Activities On Risk

We endeavour to deal with each case on a priority basis following initial investigation to establish the facts and refer to records and relevant policies. Depending on the seriousness of the situation, we will always seek to afford a contravener the opportunity of remedying the breach of planning control without formal action. In considering whether formal action is expedient in planning terms, we will have regard to negotiations, any undertakings given, the history and whether time limits are approaching which would confer immunity on unlawful development.

In prioritising our cases, consideration will be given to the risk of harm that may arise in the processing phase. Where there is a potential for irreversible damage to occur to the environment for example, enforcement action will be given the highest priority.

4. Regulators Should Share Information About Compliance And Risk

The Local Planning Authority will work closely with other enforcement organisations to secure effective regulation of the planning system, protect the environment and amenity. Consideration will always be given to the nature of the information to be shared in these cases to ensure confidentiality and data security is maintained.

We endeavour to manage enforcement cases with maximum efficiency and standards procedures, making the best use of technology and electronic communication. There are standard documents in

the toolkit with government guidance updated from time to time for these various procedures. Where discretion is applied against standards, we will adhere to the national and local plan policies to achieve as far as possible, a fair and equitable outcome.

5. Regulators Should Ensure Clear Information, Guidance And Advice Is Available To Help Those They Regulate Meet Their Responsibilities To Comply

We aim to be polite but firm with the person/peoples that are alleged to be in breach of planning or environment controls. We will meet when requested, both before and during enforcement actions, to try and achieve a satisfactory outcome and will keep complainants and Councillors informed of key stages in the process.

We already provide significant amounts of information on our website about the planning process and enforcement and we will continue to expand on this resource over time.

Dealing with Complaints

In addition to working in accordance with the five criteria set out in the Regulators Guide, the Council also takes complaints about the operation of the enforcement service seriously. Opportunity exists for complaints to be made about the operation of the enforcement through the Councils complaints procedure. Feedback from this will be used to inform future actions and improve the way in which the Council delivers this service.

4.0 THE PRINCIPLES OF PLANNING ENFORCEMENT

The use of planning enforcement powers by the Council is discretionary and the carrying out of development without planning permission, although unauthorised, is not illegal. Some actions may become illegal only following non-compliance with a formal Enforcement Notice.

All alleged breaches of planning control will be investigated by the Council except for anonymous complaints, unless there is clear evidence the resulting harm is significant.

The first consideration in any enforcement query is whether there has been a breach of planning control (details of breaches of planning control are expanded on later in this document). If there is no breach identified, and the developer has only done what they are entitled to as set out in the legislation, then the Council cannot take any action at all.

Not all work to land or building involves 'development' (see below for an explanation of development); for example, works simply amounting to maintenance or repair are not classed as development. Furthermore, a large amount of 'development' has the benefit of automatic planning permissions which are granted by the national planning regulations (commonly called 'permitted development rights'). A main part of enforcement work is assessing whether development complies with the criteria laid down for these automatic national planning permissions, criteria such as the type of development, its size, and its position.

In the first instance, the Council will seek to resolve all breaches of planning control through informal negotiation unless the breach is causing or is likely to cause imminent irrevocable harm requiring immediate action. This generally occurs in only a very small number of cases. The focus is to achieve compliance without resorting to formal proceedings which can be protracted and costly.

Where appropriate, the Council will give reasonable timescales for voluntary compliance through removal of the breach or through regularisation before seeking to take formal action.

Legislation does allow planning permission to be sought retrospectively and government guidance recommends that local planning authorities seek to regularise potentially acceptable unauthorised development through granting planning permission. Where there is a breach of planning control an application will be requested by the Council where it believes consent could be granted with conditions imposed to satisfactorily control the development. This doesn't prejudice the future decisions of the Council

It should be noted that the Council has to accept all valid applications and determine these even if they have not been invited. Instances where an application has been submitted either with or without guidance from the Council, formal action will not be taken when there is an undetermined valid planning application or appeal awaiting determination except in exceptional circumstances. When determining a planning application for non-authorised development, the non-authorised/retrospective nature of the development will not influence the planning assessment.

Any action should be proportionate to the level of harm (see below for explanation of harm) involved and should take into account relevant circumstances where it is expedient and necessary to do so, i.e. in the public interest. The Council needs to consider whether it is expedient having regard to the Council's Development Plan, National legislation, policies, guidance, any other material considerations and whether it's in the public interest to undertake formal enforcement action to remedy breaches of planning control. Expediency will depend on the level of harm caused and the likelihood of achieving voluntary compliance.

This decision to undertake formal action cannot be based simply on the notion that planning legislation has been infringed. Carrying out work without the necessary planning permission is generally not a criminal offence in itself. However, there are exceptions for illegal works to Scheduled Ancient Monuments, Listed Buildings, some Advertisements, works to protected trees and demolition of buildings in a Conservation Area. If the LPA takes enforcement action simply because there is a lack of a valid planning permission in place, it may be liable to pay the appellants costs at appeal. The LPA must be able to demonstrate that harm has been caused by the development and that there is significant benefit from taking formal enforcement action. This reflects the power to act only when 'expedient' to do so and if such action is clearly in the public interest.

There is a range of enforcement powers available to the Council to address breaches of planning control and the Council will apply the most appropriate power dependant on the circumstances of each particular case.

It is unlikely that enforcement action will be pursued where a technical breach of planning control has occurred that causes no significant harm. One example would be when development has been carried out which is only a slight variation in excess of specified criteria and no harm has been caused to amenity, safety or other interests of acknowledged importance notably planning policy.

The Local Planning Enforcement Plan applies to activities carried out via the legislation enforced by the Development Management Enforcement Team. The Council also has other powers of enforcement in relation to other legislation such as highways, environmental health and public protection. This plan does not apply to these powers though contact details are provided in on the Councils website.

Planning enforcement action will not be pursued where the matter is addressed through other legislation.

People can also perceive harm when it is caused by, for example, a possible loss of value of their property, competition from another business, trespass onto their land, or a breach of a restrictive covenant. These matters are outside the scope of the planning system, although there may be redress through civil law. In such cases, the parties should consult a solicitor or seek advice from a Citizens Advice Bureau.

5.0 PLANNING ENFORCEMENT LEGISLATION

The enforcement activities in this document mainly rely on the following statutes:

- The Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991)
- The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended by the Planning and Compensation Act 1991)
- The Planning and Compulsory Purchase Act 2004
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- The Town and Country Planning (General Permitted Development) (England) Order 2015

Guidance provided by the Government relating to planning enforcement will also be taken into account as and when it is updated or introduced. Information on the different types of Statutory Notice, or Enforcement Tools, which are available to formally remedy breaches is given below in Appendix 1: Enforcement Toolkit.

Planning legislation exists to control 'development' in the public interest and to prevent harm arising from 'development', which may be the construction or physical alteration of something, or changing the use of land and/or buildings.

6.0 WHAT IS DEVELOPMENT?

Planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in Section 55 of the Town and Country Planning Act 1990.

Development is defined by the Act as: '... the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land'. For the purposes of the legislation building operations includes;

- demolition of buildings;
- rebuilding;
- structural alterations of or additions to buildings;
- other operations normally undertaken by a person carrying on business as a builder;
- engineering operations;
- material changes of use of land and buildings;
- mining operations or;
- subdivision of a building (including any part it) used as a dwelling house for use as two or more separate dwelling houses

The categories of work that do not amount to 'development' are set out in Section 55(2) of the Town and Country Planning Act 1990. These include, but are not limited to the following:

- interior alterations (except mezzanine floors which increase the floorspace of retail premises by more than 200 square metres)
- building operations which do not materially affect the external appearance of a building. The term 'materially affect' has no statutory definition, but is linked to
- the significance of the change which is made to a building's external appearance.
- a change in the primary use of land or buildings, where the before and after use falls within the same use class.

Activity or work that is not classed as development under Section 55 of the Town and Country Planning Act 1990 cannot be addressed through the Planning Enforcement Service. The Council will use their best endeavours to ensure any queries for work falling outside the definition of development is passed on to the relevant Council department. If a third-party organisation is required to investigate or pursue action, the Council will use its best endeavours to identify the organisation and it will be a matter for the complainant to pursue a complaint directly.

7.0 WHAT IS A BREACH OF PLANNING CONTROL?

Breaches of planning control vary considerably and could involve such matters as the unauthorised erection of a building or extension to a building, a material change of use of land or building, or the display of unauthorised advertisements. The following table gives greater guidance on what is and is not a breach of planning control.

The planning breaches which are underlined in Table 1 do carry a criminal liability. Whilst other planning breaches are not a criminal offence.

There are time limits as to when enforcement action can be taken. Action has to be instigated within 4 years in relation to the erection of buildings or the change of use of a building for use as a single dwelling house. In the case of any other breach of planning control, including breach of condition, action must be taken within 10 years. There is, however, no time limit for the enforcement of breaches in relation to Listed Building legislation.

Table 1: What is a breach of planning control?

Breach of planning control	<u>NOT</u> a breach of planning control
<ul style="list-style-type: none"> • <u>Unauthorised works to a Listed Building</u> • <u>Unauthorised demolition within a conservation area</u> • <u>Unauthorised works to a tree within a conservation area or subject to a preservation order (TPO)</u> • <u>Unauthorised advertisements</u> • Breaches of planning conditions • Not built in accordance with approved plans • Untidy land affecting the amenity of an area • Unauthorised engineering works, such as alteration to ground levels • Unauthorised siting of a caravan or mobile home used as an independent dwelling house • Unauthorised material changes of use of land or buildings • High Hedges 	<ul style="list-style-type: none"> • Internal works, excluding change of use to a non-listed building • Obstruction of a highway • Parking of vehicles on highway or grass verges • Parking of caravans on residential driveways or with curtilage of a dwelling, where it does not form a separate dwelling • Operation of a business where the residential use remains the main use of the premises • Land ownership or boundary disputes • Covenants contained on property deeds • Works which are 'permitted development' under the Town and Country Planning (General Permitted Development) Order 2015 as amended. • Excepted Advertisements under the Town and Country Planning (control of Advertisements) (England) Regulations 2007 as amended. • Clearing of land and over growth of bushes and non-protected trees. • Dangerous Structures • Noise disturbance and general pollution • Fly Tipping • Business competition • Blocking of a designated right of way • Party Wall Act • Loss of Property Value

	<ul style="list-style-type: none">• Loss of View• Health and Safety• Site security.
--	---

8.0 PLANNING HARM

Planning harm is not defined in the Planning Regulations. The Oxford English Dictionary defines harm as: “Physical injury especially that which is deliberately inflicted, material damage, actual or potential ill effects or danger”.

Government guidance contained within the National Planning Policy Guidance advises that formal planning enforcement action should be taken when: “There is a clear public interest in enforcing planning law and planning regulation in a proportionate way”. Advice contained in now superseded Government publication (PPG1 1997) usefully explained that: “The planning system does not exist to protect the private interests of one person against the activities of another.... but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest”.

Harm caused by unauthorised development can be described as the injury caused to public amenity or public safety. Before taking planning enforcement action regard will be made to the policies contained within the Councils Development Plan and other material planning considerations.

Harm can include (this is not an exhaustive list) an unacceptable impact on:

- Planning Policy
- Visual amenities and the character of the area
- Privacy/overbearing/daylight/sunlight
- Noise/smells/pollution such as contamination
- Access/traffic/Highway safety
- Health and safety
- Undesirable precedent
- Ecology, Trees and Landscape
- Amenity standards of users of the development

In assessing the degree of harm that is caused will be assessed by the Council using the following table.

Where the score is 4 or below, the case will not be investigated further. The owner will be informed and invited to remedy or regularise any breach. Complainants will be notified that the development causes insufficient harm to warrant further action.

If the score is 5 or greater then it will be progressed for further consideration. An assessment will be made of the severity of the case to ensure the most significant cases are dealt with as a soon as possible.

Harm Scoring and Threshold for Taking Further Action

Points Allocation	Scoring	Score
State of breach	Worsening (1) On-going but stable (0)	
Highway Safety Issue?	Yes (1) No (0)	
Other safety issue?	Yes (1) No (0)	
Complainant	Immediate neighbour/ consultee/ Councillor (2) Other neighbour(1) Anonymous/ Malicious (0)	
Age of Breach	Within 6 months of immunity (2) Less than 1 month old (1) More than 1 month old (0)	
Is the harm	Widespread / Public (2) Local (Private) (1) None (0)	
Irreversible harm?	Yes (1) No (0)	
Causes serious environmental or statutory nuisance	Yes (1) No (0)	
Breach of a condition or Article 4 Direction? (Score 1 per condition breached max score of 5) consider environmental impacts	Yes (1-5) No (0)	
Operational development or Change of use in Green Belt or Major Breach of Planning Policy	Yes (1) No (0)	
Development affecting contaminated land	Yes (1) No (0)	
Within a Flood Zone	Zone 3 (2); Zone 2 (1); Zone 1 (0)	
Affecting the setting of Conservation Area	Yes (1) No (0)	
Harming a listed building or its setting	Yes (1) No (0)	
Sensitive site e.g. SSSI; SAM; Listed Garden; Archaeological importance	Yes (1) No (0)	
Undesirable Precedent (assessing officer to specify)	Yes (1) No (0)	
Total Points (Harm Score)		

9.0 ENFORCEMENT PRIORITIES

Planning Enforcement Officers receive a high number of enquiries regarding allegations of breaches of planning control every year. To ensure the most serious cases causing the greatest amount of harm are investigated with minimal delay, each case is prioritised according to the seriousness of the alleged breach and the degree of harm being caused. The aim is that the Council response is fair and proportionate to both the context and the nature of the breach.

Many cases may require repeat site visits, negotiation, serving of notices on owners/interested parties and more formal action before the breach is resolved. When these occur, the Council will endeavour to keep original complainants informed at key stages during the process and indicate arrangements for this in the initial response letter.

Complainants will also be provided with an acknowledgement within 5 working days except for high priority cases where the acknowledgement will be within 2 days, this will include the details of the lead officer assigned to deal with the enforcement enquiries should they require further updates or have new information pertinent to the investigation.

Table 1: Enforcement Priorities

Priority	Considerations and Example Cases
High	<p>Irreversible Harm To The Environment</p> <ul style="list-style-type: none"> • Unauthorised works to a listed building • Irreversible harm to amenity of a Conservation Area • Unauthorised works to trees covered by a Tree Preservation Order or in a conservation area • Works affecting a protected landscape included but not limited to a SAC, SSSI or SLINC • Any case where the time limit for taking enforcement action expires in the near future. • Any unauthorised development, advert or breach of condition which is causing irreparable public harm or danger; including pollution or environmental harm.
Medium	<p>Significant Reversible Harm To Amenity or the Environment</p> <ul style="list-style-type: none"> • Development prior to compliance with the discharging of conditions on a planning approval

	<ul style="list-style-type: none"> • Breach which results in serious demonstrable harm to amenity of neighbourhood • Unauthorised development which is in breach of planning policy • Source of significant public complaint • Unauthorised advertisements that have a detrimental impact on highway safety in the view of the Councils Highways service.
Low	<p>Minor Reversible Harm To Amenity or the Environment</p> <ul style="list-style-type: none"> • Unauthorised development which is not the source of significant public complaint • Erection of unauthorised advertisements

Table 2: Target Times For Initial Response To Complaint

Priority	Acknowledgement of complaint	Target time for visiting *	Detailed response targets to complainant
High	95% of cases acknowledged within 2 working days	65% within 1 working day, 95% within 2 working days	95% within 5 working days
Medium	95% of cases acknowledged within 2 working days.	65% within 5 working days, 95% within 10 working days	65% of within 10 working days, 95% within 20 working days
Low	95% of cases acknowledged within 2 working days.	65% within 10 working days, 95% within 20 working days	65% within 15 working days, 95% within 30 working days

Enforcement complaints will be assessed and prioritised by the Planning Enforcement Officer or Development Control Manager, with supporting advice given by other Departments in the Council or Statutory Consultees where deemed necessary.

10.0 PROCEDURES

At all times, staff will follow the principles set out below and will:

- Act professionally courteously and equitably
- Endeavour to negotiate a solution to the problem where possible
- Use plain language
- Advice following an investigation will be put clearly and simply in writing. All letters/electronic mail and notices to unauthorised developers will explain the breach, the requirements of the authority to put the matter right including timescales and remind the developer of the powers of the authority has to take formal action. Letters will also give contact names and telephone numbers to ensure developers are given as much information as is possible to help and advice
- Keep all personal details confidential unless court action or the Freedom of Information legislation makes it necessary to release information.
- Discourage retrospective planning applications when there is no prospect of an approval
- The rights of appeal against any formal notice will be clearly explained to the person or company being investigated.
- Before any formal action enforcement action is undertaken, an opportunity will be offered to comply with planning control or apply for retrospective consent in line with Government best practice except in exceptional circumstances. Such circumstance may involve cases where the LPA can foresee no reasonable prospect of the development being retrospectively approved either with or without conditions or the use of a Section 106 legal agreement to control the use of the site.
- Only take formal enforcement action where there is a breach of planning control, and where the action is proportionate and an environmental benefit is likely to result.

To initiate a planning enforcement investigation, complaints should normally be made in writing by letter, email to planningenforcement@newcastle-staffs.gov.uk or via the Council's website at: <https://www.newcastle-staffs.gov.uk/all-services/planning/planning-enforcement>

For each case submitted, a case officer will be assigned to deal with the assessment. Depending on the outcome of the investigation, the case may be escalated or closed depending on the findings. You will be notified of the name of the officer dealing with the case and during the key stages in the investigation and assessment.

The Council will not tolerate any physical or verbal abuse towards its planning enforcement officers either on site during an inspection, during face to face meetings, via correspondence or online. Where necessary the Council will use legal action to prevent abuse, harassment or assaults on its Officers.

Concluding a Case

A case will be considered resolved when:

- A decision is made that it is not expedient to pursue enforcement action.
- The matter is being regularised through the application process. Further investigation may be necessary on refusal of permission and development remains in breach

Classification: NULBC **UNCLASSIFIED**

- The breach of development control has ceased.
- Planning permission has been granted or is being considered.
- A formal notice is served and is in effect

Classification: NULBC **UNCLASSIFIED**

11.0 ANONYMOUS ENFORCEMENT ENQUIRIES

If enforcement enquiries are submitted without any contact details to enable the Council to seek further information or respond back to the person raising an enforcement enquiry, the Council will not normally pursue these items.

Anonymous enforcement enquiries will only be investigated if the alleged breach relates to illegal works to a Scheduled Ancient Monument, a Listed Building or works to trees which are in a Conservation Area or trees protected by a Tree Preservation Order, subject to sufficient information to be able to clearly identify the location of where the breach is allegedly being carried out.

An enforcement enquiry will be treated as being anonymous if no details are given or all the contact details provided are untraceable. It is beneficial for as many methods of communicating as possible are provided.

12.0 HOW TO SUBMIT AN ENFORCEMENT COMPLAINT

All enforcement complaints made should include the following details:

- The identity and contact details of the complainant
- The address at which the alleged breach of planning control has taken place
- A short description of what is alleged to be the breach of planning control
- Why the complainant feels that the matter involves a breach of planning control
- When the alleged breach commenced
- Details of the type of harm considered to be caused by the alleged breach.

The more information that can be provided then the greater the chance any breach can effectively be resolved.

Where available, evidence can be submitted to support any complaint. The following forms of evidence are commonly accepted:

- Photographs
- Video clips
- Activity logs (blank copy at the end of this document)
- Notes of events
- Written statements

The name and address of all complainants is kept confidential. It may be necessary that such details are later required to be disclosed for legal reasons but prior approval will be requested if the enforcement case progresses through to the Courts.

We understand that sometimes people can feel threatened, particularly in cases which may involve keeping a log of the activities of near neighbours. Enquirers who wish to remain anonymous are advised to seek support from a Councillor who could act on their behalf and ensure their anonymity.

When an enforcement enquiry is received, it will be registered on the Council's planning database system. In most cases, not all, a site visit may be necessary before the investigating case officer can determine whether or not there has been a breach of planning control.

The enquirer will be acknowledged and will be advised which case officer will be dealing with the matter and full contact details of that officer will be given. Enquirers may contact the officer for an update and they are positively encouraged to do so should they discover any new breaches or any material change to an existing complaint.

13.0 METHODS OF COMMUNICATION

The preferred method of communication is email (excluding temporary email addresses) as this allows a written log to be kept of steps taken to resolve any outstanding matter whilst also allowing information to be fed back without additional delay. Alternative methods of communication include post and telephone either landline or mobile.

All evidence intended for use in any subsequent enforcement action will need to be submitted to the Council in written form either by email or post. Verbal evidence cannot be accepted as ultimately, this cannot be presented before a Court if the matter is taken to prosecution.

The Council though does not have the resources in place to conduct an investigation through text or social media e.g. WhatsApp, Instagram, Twitter or Facebook.

14.0 RESPONSE PROCEDURE

After receipt of an enforcement complaint, the investigating case officer will research the planning history of the site and permitted development rights and assess whether or not the enforcement enquiry constitutes a breach of planning control.

If there has been no breach of planning control then the case will be closed and the enquirer advised of this decision.

Where it is apparent that development has taken place without the relevant valid consent in place, it is normal practice to inform the person responsible that they are in breach and to invite an application to regularise the development. This will only happen, if such an application could be looked upon favourably and follows Government guidance on ensuring effective enforcement.

Where unauthorised development is identified and is not acceptable, the case officer will prepare a report to the Planning Committee outlining the planning issues arising from the breach. The report may recommend serving a statutory notice. Where necessary, liaison will take place with the Council's solicitors to agree the most appropriate course of action. Those in breach of planning control will be informed of the decision to take the matter to the Planning Committee and advised of the date of that Committee (as will the enquirers). The requirements of any formal notice will always be the minimum required to resolve the breach of planning control.

Summary of actions we will take according to the status of an investigation.

Status of the Investigation	The Council's Actions
No breach of planning control has been identified	The Council will write to the complainant to advise them of our findings and the investigation will be closed.
A breach of planning control has been identified where it is not expedient to take action	The Council will write to the complainant to advise them of its findings and provide an explanation as to why no action will be taken in this instance. The investigation will be closed.
A breach of planning control has been identified and retrospective planning application may regularise the breach.	<p>The Council will write to the person responsible for the breach of planning control and explain why the works/use require planning permission and provide advice on how that permission can be obtained.</p> <p>The Council expects a planning application to be submitted within 28 days. If an application is not submitted, the Council will decide whether it would be expedient to pursue enforcement action.</p>

	<p>The Council will write to the complainant to confirm a retrospective planning application is being sort to regularise the planning breach</p>
<p>A breach of planning control has been identified and the matter needs to be addressed.</p>	<p>The Council will write to the complainant advising of the need for action by the owner.</p> <p>The case will be given a priority level.</p> <p>The Council will also write to the person(s) responsible for the breach to advise them what steps they need to take to address the breach of planning control and the timescales within which those steps must be taken. The Council will also advise of the consequences of not complying with its request.</p>
<p>Further investigation is required.</p>	<p>The Council will write to the complainant to advise them of its initial findings.</p> <p>The case will be given a priority level and further investigations will be undertaken by the case officer.</p> <p>The Council will write to the person(s) responsible for the breach to advise them of the information that it needs. This may involve issuing a Planning Contravention Notice (PCN) which must be completed and returned to the Council within 21 days. A PCN may also be issued in the above circumstances.</p>

15.0 THE EXPEDIENCY TEST

If a planning application is not submitted to regularise unauthorised works, the Council must then decide whether or not it is considered expedient to take formal enforcement action. In making this decision, the Council will have due regard to the provisions of the Development Plan and any other material considerations, to assess whether the breach causes an unacceptable level of planning harm. Matters assessed may include the location of the breach, its visual impact, its effect on neighbours' amenity or its impact on highway safety as set out on the scoring sheet above.

The Council considers it will not be expedient to pursue planning enforcement action under the following circumstances: -

- where the outcome of any enforcement action would not result in a significant environmental gain or benefit
- Where there is no evidence of a breach of planning control*.
- permission would be likely to be granted for the development without conditions**
- where the breach affects Council-owned land or is on the public highway ***

Notes

* see page 28, dealing with intermittent breaches of planning control

** those affected will be advised of the need to apply for planning permission and the fact that the owner/operator may encounter legal difficulties should they choose to sell

*** in these cases, the powers available to the council as landowner or as local highway authority are likely to be more appropriate and such cases will be passed to the appropriate part of the Council for consideration

In some cases, it may be appropriate for Officers to enter into negotiations with the alleged contravener to either secure compliance with a condition or permission, or to negotiate changes to a development to make it more acceptable in planning terms. These negotiations may negate the need for enforcement action.

16.0 IMMUNITY FROM ENFORCEMENT ACTION

Planning legislation confirms, some types of development are lawful and immune from enforcement action if they have existed for specified periods of time:

- More than 4 years for a building, or other construction works, external alterations to building/construction works and the use of a building as a residence
- More than 10 years for a change of use of land/buildings or a failure to comply with planning conditions on a planning permission.
- There is no time limit for the enforcement of breaches in relation to Listed Building legislation.

Officers will check planning histories, aerial photographs, and other sources, where appropriate, to test any claims of immunity. They may also invite comment from those who may know more about the issue, for example near neighbours.

If it appears that the development may be immune from enforcement action, then advice will be given on the submission of an application for a Certificate of Lawful Existing Use or Development (commonly referred to as a "CLEUD"). In such cases, the onus of proof remains with the applicant. If no such CLEUD application is made, based on the evidence before the Council, then the case will be closed as immune from enforcement, even though the breach has not been formally regularised.

Where evidence is forthcoming that a development has apparently gained immunity from enforcement action over time due to deliberate concealment, the Council will look to use Planning Enforcement Orders to investigate the matter further. Breaches of control in remote or locations infrequently observed by the public but which have not been deliberately concealed e.g. agricultural structures or structures in large private gardens would not normally be subject to further scrutiny on the basis that its impact is infrequently observed.

17.0 HOW THE COUNCIL RESPONDS TO DIFFERENT TYPES OF BREACH

On-going breaches of planning control

Breaches of planning control involving physical works are easier to observe than occasional breaches which are often associated with changes of use.

The Council will seek to prioritise the case depending on the nature of the works and whether they are on-going or have been completed. In addition, consideration will be given to whether the development is causing any irretrievable harm which maybe increasing due to the presence of the breach for example pollution to a sensitive ecological habitat.

The Council will seek to gain evidence of the breach from a number of observation points, including neighbouring properties, where permission is granted, to fully and accurately assess the scale of harm arising.

Intermittent breaches of planning control

In some cases, it is not possible to determine whether or not there has been a breach of planning control because the activities are sporadic. Typically, this can be a business being operated from domestic properties, a breach of opening hours restrictions or a low-key change of use of premises.

In these cases, the following sequence will be adopted:

- 1) Following the initial site visit, a letter and log sheets will be sent to the complainant asking to record activities for a 28-day period and then return the log sheets to the case officer;
- 2) The log sheets will then be assessed by the case officer, senior planning enforcement officer and a Team Leader if deemed necessary;
- 3) If there is evidence of a breach of planning control, then a targeted inspection will be made to progress the investigation. Investigations like these may mean a number of inspections need to be made including outside normal working hours which will require authorisation. For these reasons log sheets completed by complainants are essential for evidence collecting and hence why they are specifically requested.

If log sheets are not completed and/or not returned to the case officer then the case will be reviewed to see if the necessary information to pursue a case or whether evidence can be secured through any other reasonable means. Where this is not possible then the case may potentially be closed down. Following investigation of the enforcement complaint, the complainant will be informed of the Council's decision including to close a case if no breach is noted or if insufficient evidence can be collected to prove a breach. Where a case is closed the information will be retained on file as a record.

Retrospective planning applications

Requesting a retrospective planning application has the advantage of the Council being able to obtain full details of the works that have been carried out and enables interested parties to be formally consulted before an informed decision is made. It may also be possible to make amendments to the scheme or impose conditions which overcome the concerns of interested parties. A period of 28 days will normally be given for such an application to be submitted, although this period may be reduced or increased depending on the merits of each case.

Any views or advice given by officers will be informal and will not prejudice the outcome of any planning application which is subsequently submitted. Where there are no reasons to oppose the development, in the pursuit of expediency the Council may exercise its discretion not to pursue enforcement action, as set out on page 26.

Where formal action is required and it will affect a business or commercial interest, full regard will be given to the Government's Enforcement Concordat. Where necessary those in breach will be referred to the Council's Economic Regeneration Officers, in order that efforts may be made to minimise the effects of any necessary enforcement action. For example, help in guiding the business to an alternative site where the business activity is better suited.

Timescales for compliance with any formal enforcement action will reflect the following:

- harm arising to the environment,
- harm to the amenity of the neighbours,
- needs of the business and impact on staff and customers
- impact of the enforcement action
- time needed to remedy the breach.

The Council acknowledge this may be unwelcome to the complainant; however, this judgement must be part of the process if enforcement action is taken. If the Council seeks to take a case to prosecution through the Courts, consideration will be given to whether the Council has acted in a reasonable manner.

If it can be successfully argued by a defendant that the Council has acted in an unreasonable manner then the case may be dismissed irrespective of the merits of the case or the harm arising.

For cases where the breach is causing significant harm, the Council will consider whether it is expedient to move directly to taking formal enforcement action rather than inviting a planning application. The type of enforcement action available for such cases is outlined in in Appendix 1.

When a retrospective planning application is received, it will be determined on its own merits. Unless the breach is causing serious harm, it is normal practice to await the determination of the planning application before deciding whether to pursue formal enforcement action. The enforcement case will remain open until the planning application has been determined. If the retrospective planning application is approved, then the enforcement case will be closed subject to the applicant's compliance with any conditions requiring changes to the development to make it

acceptable or overcome any harm. If the planning application is refused then the case will remain open until the breach is satisfactorily resolved.

18.0 PLANNING ENFORCEMENT OPTIONS

An objective of planning enforcement is resolving problems by negotiation and persuasion. However, there are a number of cases which require formal enforcement action to be taken.

Where it is deemed necessary to take such action, the parties will be advised of the action to be taken. The owner/operator affected by the notice will also be advised of any rights of appeal and the penalties for non-compliance.

The details and definitions of the main types of action are detailed in Appendix 1. In some cases, officers can act under delegated powers and in others the case will need to be reported to the Planning Committee by the Head of Planning and development for authorisation of enforcement action.

Formal Enforcement Action

The type of enforcement action to be pursued will be dependent on the circumstances of the case. The type of action pursued must also be proportionate to the nature of the breach of planning control. There are many different forms of enforcement action which are available to the Council and these are summarised below in Appendix 1.

In considering whether to pursue enforcement action, the Council must also take into account the Human Rights Act 1998 and the Articles contained therein with particular reference to the Right to a Fair Trial, the Right to a private family life and the protection of property.

The Council also has a duty to work towards the elimination of unlawful discrimination and to promote equality of opportunity and good relations between persons of protected characteristics in the carrying out of their functions, in accordance with The Equality Act 2010.

Once the decision has been made to pursue formal enforcement action, the relevant notice will be issued by the Council. When a Notice has been issued the relevant Enforcement Public Register is updated as a matter of course. If a notice is subsequently complied with the Register is further updated. An electronic version of the Enforcement Register can be viewed on the Council's website and this is updated on a quarterly basis. Enforcement notices once served stay with the land in perpetuity and do show up on local land charge searches.

Depending on the type of enforcement action pursued, there are various rights of appeal, which may suspend the effect of a notice until the appeal is heard. Further information on this is contained within Appendix 1.

Formal notices, give the person responsible for the breach, a specified time limit in which to remedy the breach or provide relevant information for consideration in the investigation.

Once this time period has expired the case officer will check whether the notice has been complied with. Then depending on the nature of the notice, this will shape how the investigation proceeds. For example, if the notice is a PCN, the information within it may confirm a planning breach and an Enforcement Notice will then be served and the case continues.

If the planning breach is resolved, no further action will be taken by the Authority and the file will be closed.

If, however, the notice has not been complied with, the case officer, liaising with the Council's solicitor, and having regard to the constitution consider whether or not to prosecute as this is a criminal offence. The Council could utilise stop notices or temporary stop notices to cease a use or building operation. In some cases, such as Section 215 notices, the Council may take Direct Action, also known as Default Action to secure compliance. These forms of action are explained in more detail in Appendix 1

Prosecutions

Failure to comply with any requirement of a statutory notice is usually a criminal offence and the Council will normally take legal action in such cases.

Where breaches of planning control lead to criminal offences being heard in Court, officers will ensure that all relevant evidence is put before the Court and that the disclosure obligations are complied with. The decision to prosecute will also take account of the evidential and public interest tests.

All prosecution action will be taken in accordance with the Police and Criminal Evidence Act 1984 as amended (PACE).

Where it is considered in the public interest to do so, the Council is likely to make a costs application to the Court in order to recover its expenses in pursuing prosecution cases.

In the event of legal proceedings, a successful outcome may depend upon the willingness of complainants to appear as witnesses at Court. Whilst during the investigation period the complainant's details are kept confidentially, in order to act as a witness this anonymity is waived.

Where a criminal offence has occurred, and the Defendant(s) has been found guilty, the Local Planning Authority may request that the Court makes a Confiscation Order under the Proceeds of Crime Act 2002. The Confiscation Order will relate to any financial benefit arising from a criminal activity.

Direct Action

There are a small number of cases where Statutory Notices are issued and not complied with and successful legal proceedings fail to resolve the breach. Similarly, there are cases where prosecution will clearly not be effective.

Provision is made for the Council to take direct action in certain circumstances, to enter the land and remedy the problem (Town and Country Planning Act 1990, under section 178 and section 219)

Direct action will be only be taken after full consultation has been taken with all relevant parties (and this will depend on the nature of the case) and only if authorisation has been given by the Planning Committee. Reports to Planning Committee on such matters will be considered in private session in accordance with the Local Government Act 1972 to ensure that the case is not prejudiced.

If direct action is taken the cost to the Council can be considerable. A charge in favour of the Council for the cost of the action will be registered on the land to ensure that money raised by any future sale will be used to recoup the Council' costs. Other actions to recover the money will be considered, where appropriate.

APPENDICES

APPENDIX 1: ENFORCEMENT TOOLKIT

APPENDIX 2: REVIEW OF THE LOCAL ENFORCEMENT PLAN

APPENDIX 3: REFERENCE SOURCES

APPENDIX 4: LOCAL PLANNING ENFORCEMENT PLAN RESIDENTS GUIDE

APPENDIX 5: ENFORCEMENT LOG SHEETS

APPENDIX 1: ENFORCEMENT TOOLKIT

The following section of this Local Enforcement Plan provides a summary of the various tools available to deal with alleged breaches of planning control. The Local Planning Authority must assess, in each case, which power (or combination of powers) is best suited to dealing with any particular anticipated/apprehended, or actual, breach of control to achieve a satisfactory, lasting and cost effective remedy, having regard to the circumstances of the case.

It should also be noted that the type of enforcement action taken should be commensurate and proportionate with the breach of planning to which it relates.

OBTAINING INFORMATION

There are three 'requisition' powers for planning enforcement purposes:

- Section 330 of the Town and Country Planning Act 1990 (as amended)
- Section 16 of the Local Government (Miscellaneous Provisions) Act 1976
- Section 171C of the Town and Country Planning Act 1990 (as amended)

Section 330 of the Town and Country Planning Act 1990 (as amended): Request for Information (RFI)

This power may be used in order to obtain relevant information at an early stage of the enforcement process. It involves serving a notice on either the occupier of the premises or the person receiving rent for the premises. This form of notice may also be used for investigating enforcement under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 16 of Local Government (Miscellaneous Provisions) Act 1976

These provisions are primarily intended to enable an authority to establish the facts about ownership of land.

Section 171C of the Town and Country Planning Act 1990 (as amended): (Planning Contravention Notice)

The main method for Local Planning Authorities to obtain information about activities on land, when it appears to the Local Planning Authority that a breach of planning control has occurred, is to serve a Planning Contravention Notice (PCN). A PCN takes the form of a series of questions relating to the suspected breach of planning control. It is an offence to fail to respond to the notice within 21 days, or to make false or misleading statements in reply.

The intention of the Council in issuing a PCN is also to send a clear warning that further formal action is being considered. Failure to provide the information required by a PCN can result in a fine of up to £1,000 whilst provide false information can result in a fine of up to £5,000.

This notice however is not available for use in respect of suspected works to Listed Buildings or protected trees.

POWERS OF ENTRY FOR ENFORCEMENT PURPOSES: Sections 178(1) and 219 Town & Country Planning Act 1990

In addition to the investigative powers outlined above, case officers also have powers to enter land, specifically for enforcement purposes. This right is limited to what is regarded as necessary, in the particular circumstances, for effective enforcement of planning control. A notice period of at least 24 hours is required before entry can be demanded to a dwelling house. Prior notice is not required for access to domestic outbuildings or garden land, industrial, commercial or farmland.

A new Code of Practice introduced in April 2015 recommends that contact should be made with owners/occupiers before exercising powers of entry, unless it is impracticable to do so or would defeat the purpose of the inspection. The full version of the code can be found at: <https://www.gov.uk/government/publications/powers-of-entry-code-of-practice>

Powers of entry also exist in accordance with a warrant, and procedures in respect of those matters can also be found within the above Code of Practice.

DEFAULT POWERS AND DIRECT ACTION – Sections 178(1) and 219 Town & Country Planning Act 1990

The Council may enter land and carry out required works to secure compliance when an Enforcement Notice is in effect but has not been complied with. There is no requirement to give notice to either the owner or occupier of the land, although it is good practice to do so. In some circumstances the Council can enter land to carry out remedial works and recover costs incurred from the land owner. Such expenses, until recovered, become a charge on the land, binding on the successive owner.

ADDITIONAL SURVEILLANCE METHODS

Currently, the Council does not utilise evidence gathered through CCTV techniques including street based cameras, body cameras or drone footage. Legislation in these areas through is subject to change and importantly, the cost of acquiring and utilising such resources is also changing.

The use of such evidence gathering techniques will therefore be kept under review and future reviews of this Plan may provide further information on how the Council utilises such sources of information.

The use of CCTV filming will be reviewed through the Councils separate CCTV Policy

ENFORCEMENT MEASURES

The following section refers to types of formal enforcement action which may be taken by the Local Planning Authority in order to require a particular use or development to cease or for works to be removed or modified:

Where it is considered enforcement action is appropriate, the Council has a range of legal powers it can utilise. Some of the more stringent measures have counter balances which a person who has been served with a notice can use to seek redress if they believe the Council has either not examined the details of the case fully or is in exceedance of its powers.

These rights may result in costs awards being made against the Council if it were to be found to have pursued enforcement action with a weak case or even flawed case which in turn would impact on the wider Council budget.

BREACH OF CONDITION NOTICE (BCN) – Section 187A Town & Country Planning Act 1990

Used as an alternative to an Enforcement Notice but only in circumstances where there has been a failure to comply with conditions attached to a planning permission. The BCN must specify details of the breach and the steps required to secure compliance. A minimum period of 28 days must be given for compliance. There is no right of appeal to the Secretary of State. It does not apply to breaches of conditions attached to listed building consent or advertisement consent. Failure to comply with a BCN can result in a fine of up to £1,000.

ENFORCEMENT NOTICE - Section 172 Town & Country Planning Act 1990

An Enforcement Notice can only be served when the Local Planning Authority is satisfied that there has been a breach of planning control and when it is considered expedient to do so. An Enforcement Notice requires specific steps to be taken which may include a use to cease or for a structure to be removed. It must also specify the period for compliance.

An Enforcement Notice must contain an explanation of the reasons it is being issued. The reasons should be carefully considered and be specific to the case. Failure to comply with an Enforcement Notice is a criminal offence.

The recipient of an Enforcement Notice has a right to appeal to the Secretary of State. Such an appeal will suspend the effect of the Notice until the appeal is determined. If an appeal is lodged all complainants and interested parties will be advised of the appeal details and how to make representations. Failure to comply with an Enforcement Notice can result in a fine of up to £20,000.

LISTED BUILDING ENFORCEMENT NOTICE: Section 7 Planning (Listed Buildings & Conservation Areas) Act 1990

A Local Planning Authority may serve a Listed Building Enforcement Notice if unauthorised works have been or are being carried out to a listed building. Like an Enforcement Notice the recipient of this type of Notice has a right to appeal to the Secretary of State.

STOP NOTICE: Section 183 Town & Country Planning Act 1990

When the effects of unauthorised activity are seriously detrimental, a Stop Notice may be served to ensure that an activity does not continue if an appeal is lodged against the Enforcement Notice. A Stop Notice can only be served where an Enforcement Notice has been issued. A Stop Notice can

relate to any, or all, of the uses or activities specified in the Enforcement Notice. It does not apply to works to a Listed Building.

It is an offence to contravene a Stop Notice. Whilst there is no right of appeal against a Stop Notice, the validity of a Notice or the decision to issue the Notice can be challenged in the Courts by an application for Judicial Review. Failure to comply with a Stop Notice can result in a fine of up to £20,000.

TEMPORARY STOP NOTICE: Section 171E Town & Country Planning Act 1990

Where the Local Planning Authority considers that a breach of planning control should stop immediately it may serve a Temporary Stop Notice. Such a notice expires 28 days after it has been served and during this period the Council must decide whether it is appropriate to take further enforcement action. Once a Temporary Stop Notice has been served it is not possible to serve further Temporary Stop Notices for the same breach of planning control.

There are restrictions on the use of temporary stop notices; for example, such a notice cannot prohibit the use of a building as a dwelling house and may not prevent the continuance of an activity which had been carried out for a period of four years. Failure to comply with a Temporary Stop Notice can result in a fine of up to £20,000.

DISCONTINUANCE NOTICE

The Town and Country Planning (Control of Advertisement) Regulations enable a Local Planning Authority to take discontinuance action against any advertisement, which normally has the benefit of any of the categories of deemed consent.

A Discontinuance Notice may only be served if the planning authority is satisfied it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public. There is a right of appeal against a Discontinuance Notice.

SECTION 215 NOTICES /UNTIDY LAND NOTICE: Town & Country Planning Act 1990

Under Section 215 of the Town and Country Planning Act, a Local Planning Authority may serve a notice on the owner or occupier of the land, if it appears that the amenity of a part of their area, or an adjoining area is adversely affected by the condition of the land. A Section 215 notice may deal with 'buildings' as well as land. There is an appeal provision, where the recipient may challenge the notice in the Magistrate's Court.

Dilapidated buildings may also be open to action under the Building Act 1984 and these cases will be referred to Building Control immediately following a site inspection. These are frequently also vacant, and can quickly generate a lot of concern for neighbours. The issues vary a lot between different sites, and the Council needs to decide whether or not the land and/or buildings are detrimental to the amenity of the area (as this is the test set out in the legislation).

High priority cases may, for example, be where:

- A significant part of the land or the exterior of the building is seriously visually damaging to the area (for example the roof and the façade may be damaged or missing, or demolition rubble left in place)

AND

- The land is in a prominent location

It will not normally be possible to take action simply because the building is not secure or because of the presence of graffiti. Nor will it be possible to take action where the problem relates to the accumulation of a small amount of materials that may attract vermin. In these cases other parts of the Council may be able to act. Where a referral is considered necessary, this will be done as soon as possible.

COMPLETION NOTICE: Section 94 Town & Country Planning Act 1990

A Completion Notice may be served if the Local Planning Authority is of the opinion that development (which has started within the statutory 3-year period) will not be completed within a reasonable period. For this type of Notice, the period for compliance has to be a minimum of 12 months. The Local Planning Authority must also refer the Notice to the Secretary of State for confirmation. There is a right of appeal against a Completion Notice.

INJUNCTION: Section 187B Town & Country Planning Act 1990

A Local Planning Authority can apply to the High Court or County Court for an Injunction to restrain an actual or apprehended breach of planning control. An Injunction can be sought whether or not other enforcement action has been taken and when the identity of the person responsible for the breach is unknown.

When a planning obligation (Section 106 agreement) has not been complied with the Council may apply for an Injunction to secure compliance with the legal agreement. A Local Planning Authority may also apply for an injunction to restrain a breach or apprehended breach of tree preservation or Listed Building control.

The decision whether to grant an injunction is always in the absolute discretion of the Court. The Court will need to be satisfied in the case of every injunction application that enforcement action in this form is proportionate.

TREES (CONSERVATION AREAS/PRESERVATION ORDERS) – Sections 210 and 211 Town & Country Planning Act 1990

In the case of protected trees, it is a criminal offence to:

- Cut down, uproot or wilfully destroy a tree protected by a Tree Preservation Order (TPO) or;
- Wilfully damage, top or lop a tree protected by a Tree Preservation Order in a way that is likely to destroy it.

If any of these works are carried out, the Council must decide whether or not to prosecute. A Local Planning Authority may issue a Tree Replacement Notice requiring the owner to plant a tree or trees of appropriate size and species if a tree has been removed in contravention of a TPO or if a protected tree has been removed because it was dead or dangerous.

The cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of trees within a Conservation Area is also a criminal offence. A Tree Replacement Notice can also be served in respect of the unauthorised removal of tree(s) in a Conservation Area. An appeal can be lodged against a Tree Replacement Notice

HEDGEROW REPLACEMENT NOTICE

It is a criminal offence to intentionally or recklessly uproot or otherwise destroy a hedge protected by the Hedgerows Regulations 1997 (which includes hedgerows on or adjacent to agricultural, equine or common land etc.). If any of these works are carried out, the Council must decide whether or not to prosecute.

A Local Planning Authority may issue a Hedgerow Replacement Notice requiring the owner to replant a hedgerow of appropriate size and species if a hedgerow has been removed in contravention of these Regulations. An appeal can be lodged against a Hedgerow Replacement Notice.

HIGH HEDGE REMEDIAL NOTICE

The Local Planning Authority may issue a High Hedge Remedial Notice if an evergreen/semi evergreen hedge is found to be a 'nuisance' when assessed in accordance with the Anti-Social Behaviour Act 2003, part 8, High Hedges. If an owner or occupier of the land where the hedge is located fails to comply with the Notice the owner or occupier will be guilty of an offence. An appeal can be lodged against a High Hedge Remedial Notice.

LEGAL AGREEMENTS

Legal agreements under Section 106 of the Town and Country Planning Act can be used to restrict development or the use of land. They may also be used to require specific operations or activities to be carried out. The advantage of this approach is that the legal agreement goes with the land and not an individual and therefore remains in perpetuity.

Should a site be sold on, the requirements of the legal notice have to be taken on by the new owners. The requirements of the notice also apply if the land is rented or leased.

SECTION 225A: REMOVAL NOTICES

Section 225A allows a Local Planning Authority to remove, and then dispose of, any display structure in their area which, in the Local Planning Authority's opinion, is used for the display of advertisements in contravention of the regulations. This power is subject to the Council first serving

a 'Removal Notice' upon the persons who appear to be responsible for the structure. There is a right of appeal against a Removal Notice to the Magistrate's Court.

In 2014 new powers were introduced for Councils through the Anti-Social Behaviour, Crime and Policing Act 2014. Those powers which can be used to deal with planning enforcement enquires relating to the following:

- illegal hoardings;
- fly-posting;
- graffiti; and
- unauthorised advertisements alongside highways.

COMMUNITY PROTECTION NOTICE (CPN): Section 43 Anti-social Behaviour, Crime & Policing Act 2014

This can be used where the behaviour of a person, business or organisation is considered to have a detrimental effect on the quality of life of those in the locality. The behaviour has to be of a persistent or continuing nature. This form of action can be used as an alternative approach to Section 215 notices referred to above. There is a right of appeal and the failure to comply with a CPN is a criminal offence.

In April 2012 new powers were introduced through the Localism Act 2010 which includes the following requirements:

- someone to stop doing specified things
- someone to do specified things
- someone to take reasonable steps to achieve specified results.

Due to their wide scope, CPN's can be issued by a number of departments in the Councils and each case will be determined on the particular circumstances.

DECLINE TO DETERMINE A RETROSPECTIVE APPLICATION: Section 70C Town & Country Planning Act 1990:

A Local Planning Authority may decline to determine a retrospective application for development which is the subject of an Enforcement Notice served after 6 April 2012.

PLANNING ENFORCEMENT ORDER (PEO) – Section 124 Localism Act 2011 (and Section 171B Town & Country Planning Act 1990

Where there has been deliberate concealment of a breach of planning control, the LPA may apply to the Magistrates' Court for a planning enforcement order. Once granted the LPA can serve an enforcement notice. The 4 year and 10 year periods for immunity will not apply in cases of concealed breach. An application for a PEO must be made within 6 months of the LPA becoming aware of the breach and having sufficient information to justify enforcement action being taken.

ADVERTISEMENTS – Section 224 Town & Country Planning (Control of Advertisements)(England) Regs 2007

Classification: NULBC **UNCLASSIFIED**

It is an offence to display an advertisement in contravention of the above. When deciding on action the Council will consider factors such as amenity or public safety

Classification: NULBC **UNCLASSIFIED**

APPENDIX 2: REVIEW OF THE LOCAL ENFORCEMENT PLAN AND COMPLAINTS

This document will be reviewed annually to ensure that it remains current and consistent with best practice. Reviews will take into account any changes to current legislation and/or guidance and also comments received from residents, customers, businesses and visitors to the Borough.

To enable continuous improvement of the enforcement function, the key elements of this Local Enforcement Plan will be reviewed. These key elements include:

- relevant policies
- type of breaches of planning control
- resources available
- procedures for investigating complaints
- tools available to enforce breaches of planning control

The operational review of these elements will enable the Council to identify where best to target resources and meet the obligations imposed upon changing legislation, procedures and practices.

The Council will strive to provide the highest possible quality of service delivered in a fair and consistent manner. Customer suggestions are therefore, welcome as to how we can make improvements to the planning enforcement process. Alternatively, problems may arise from time to time and any difficulties concerning the enforcement service should be brought in the first instance to the attention of the Area Planning Manager.

If still dissatisfied a further complaint can be submitted through the Council's formal complaints procedure and the Local Government Ombudsman. Details of both are available on the Council's website. Please be aware however, that such a complaint must relate to the way in which the complaint has been handled as opposed to the final decision reached.

APPENDIX 2: CONTACTING THE COUNCIL

Help us to help you

We are constantly looking at ways to improve our services and welcome comments on this Enforcement Policy and any other matter relating to our Service. Contact details are given below:

By Post

Development Management Service
Newcastle-under-Lyme Borough Council
Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

To ensure your complaint is immediately logged into our enforcement system please use the Council's on-line form at:

<https://www.newcastle-staffs.gov.uk/all-services/planning/planning-enforcement>

Alternatively you may submit your complaint is submitted by E-mail. As this service requires additional data handling to enter the complaint into the system, please allow an addition two working days for the case to be registered: planningenforcement@newcastle-staffs.gov.uk

We cannot register complaints made verbally as we require written evidence of a complaint to present to the courts if we proceed to prosecution in in any matter. You can however speak to use about the possibility of submitting a complaint or to enquire about an ongoing matter by telephone: 01782 742408

Advice on how to make an enquiry about unauthorised development or what to do if you carry out works or a change of use without planning permission can be obtained from the Councils Planning web site at: <https://www.newcastle-staffs.gov.uk/all-services/planning/planning-applications/planning-applications-forms>

APPENDIX 3: REFERENCE SOURCES

National Planning Policy Framework

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

National Planning Policy Guidance

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

Newcastle Under Lyme Planning Policies

<https://www.newcastle-staffs.gov.uk/all-services/planning/planning-policy/joint-local-plan>

Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004) as amended.

Town and Country Planning (Control of Advertisements)(England) Regulations 2011.

Planning (Listed Buildings and Conservation Areas) Act 1990

Anti-Social Behaviour, Crime and Policing Act 2014

Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Human Rights Act 1998.

- Article 1 of the First Protocol – protection of property
- Article 6 - the right to a fair trial
- Article 8 – right to respect for family life; and home
- Article 14 – protection from discrimination

Police and Criminal Evidence Act 1984; as amended.

Localism Act 2011.

General Permitted Development Order 2015; as amended.



Planning & Development

Local Planning Enforcement Plan

Residents Guide

June 2020

CONTENTS

- 1.0 WHAT IS PLANNING ENFORCEMENT*
- 2.0 BREACHES OF PLANNING CONTROL*
- 3.0 HOW TO MAKE AN ENFORCEMENT ENQUIRY*
- 4.0 TIMESCALES*
- 5.0 PLANNING ENFORCEMENT OPTIONS*
- 6.0 PLANNING ENFORCEMENT POWERS*
- 7.0 WHAT IF A COMPLAINT IS MADE ABOUT YOUR PROPERTY OR DEVELOPMENT?*
- 8.0 PHYSICAL AND VERBAL ABUSE TOWARDS OFFICERS*
- 9.0 FURTHER INFORMATION*

1.0 WHAT IS PLANNING ENFORCEMENT

This is a guide for residents and the local community to greater understand the Planning Enforcement procedures and the approach of the Council to alleged planning breaches.

The planning system operates to regulate development and the use of land. It has regard to the development plan, other material planning considerations and the community interest. Planning enforcement is a technically and legally complex element of the planning system, which means that action is not always straight forward. Whilst the investigation of an enquiry is mandatory, enforcement action is a discretionary power of the Local Planning Authority and not all breaches of planning control result in formal enforcement action.

To ensure that the community can have confidence in the planning system there needs to be effective and proper enforcement of planning controls. Fair and effective planning enforcement is therefore important to protect the quality of life for the people who live and work in Newcastle Under Lyme, and the quality of the Boroughs built and natural environment. The Council's focus will be on these cases where the impacts are significant and or irreversible.

2.0 BREACHES OF PLANNING CONTROL

2.1 What is a breach of planning control?

Breaches of planning control can vary considerably and could involve matters such as the unauthorised erection of a building or extension of a building, a material change of use of land or a building or the display of unauthorised advertisements. The following table gives greater guidance on what is and is not a breach of planning control.

The planning breaches which are underlined in table 1 do carry a criminal liability. Whilst other planning breaches are not a criminal offence.

There are time limits as to when enforcement action can be taken. Action has to be instigated within 4 years in relation to the erection of buildings or the change of use of a building for use as a single dwelling house. In the case of any other breach of planning control, including breach of condition, action must be taken within 10 years. There is, however, no time limit for the enforcement of breaches in relation to Listed Building legislation.

Table1: What is a breach of planning control?

Breach of planning control	<u>NOT</u> a breach of planning control
<ul style="list-style-type: none"> • <u>Unauthorised works to a Listed Building</u> • <u>Unauthorised demolition within a conservation area</u> • <u>Unauthorised works to a tree within a conservation area or subject to a preservation order (TPO)</u> • <u>Unauthorised advertisements</u> • Breaches of planning conditions • Not built in accordance with approved plans • Untidy land affecting the amenity of an area • Unauthorised engineering works, such as alteration to ground levels • Unauthorised siting of a caravan or mobile home used as an independent dwelling house 	<ul style="list-style-type: none"> • Internal works, excluding change of use to a non-listed building • Obstruction of a highway • Parking of vehicles on highway or grass verges • Parking of caravans on residential driveways or with curtilage of a dwelling, where it does not form a separate dwelling • Operation of a business where the residential use remains the main use of the premises • Land ownership or boundary disputes • Covenants contained on property deeds • Works which are ‘permitted development’ under the Town and Country Planning (General Permitted Development) Order 2015 as amended. • Excepted Advertisements under the Town and Country Planning (control of

<ul style="list-style-type: none">• <i>Unauthorised material changes of use of land or buildings</i>• <i>High Hedges</i>	<p><i>Advertisements) (England) Regulations 2007 as amended.</i></p> <ul style="list-style-type: none">• <i>Clearing of land and over growth of bushes and non-protected trees.</i>• <i>Dangerous Structures</i>• <i>Noise disturbance and general pollution</i>• <i>Fly Tipping</i>• <i>Business competition</i>• <i>Blocking of a designated right of way</i>• <i>Party Wall Act</i>• <i>Loss of Property Value</i>• <i>Loss of View</i>• <i>Health and Safety</i>• <i>Site security.</i>
---	---

3.0 HOW TO MAKE AN ENFORCEMENT COMPLAINT

3.1 Making an enforcement complaint

It is useful when raising a complaint to include as much detail relating to the breach as possible, including the exact location of the site or property, the nature of the breach and the harm it is causing.

To assist the Council and prevent misunderstandings it is preferred for enquiries to be submitted online at: <https://www.newcastle-staffs.gov.uk/all-services/planning/planning-enforcement> or by emailing: planningenforcement@newcastle-staffs.gov.uk

The following information is necessary to conduct an enforcement enquiry:

- *Your name, address, email and phone number*
- *Location/address of the complaint, where the planning breach is occurring*
- *Details of the complaint, including when it started*
- *Details of the harm that is occurring due to the breach*

The fullness of these details is important in enabling officers to prioritise enquiries. In some cases, we may ask you to submit evidence of the breach such as activity logs, photographs, notes of events.

If we do not receive sufficient information about an enquiry, for example the location, then we may not be in the position to accept the enquiry.

3.2 Confidentiality

The name and address of all complainants is kept confidential. We require contact information in order to keep you informed of the process and to contact you to assist use in our investigation. It may be necessary for legal reasons such as Freedom of Information requests that details need to be disclosed, however this information will only be revealed if the information is shown to be in the public interest.

Whilst we do accept anonymous enquiries, these are not priorities. If you feel threatened and therefore unable to provide your details it is recommended to seek support from your Local Councillor who can act on your behalf and protect your anonymity.

3.3 Methods of communication

The Council prefers to use email as this allows for a written log of the steps taken to resolve matters, and allows for information to be fed back without delay.

3.4 How enquiries will be dealt with

At all times, staff will follow the principles set out below and will: -

- *Act professionally courteously and equitably*

- *Negotiate a solution to the problem where possible*
- *Use plain language*
- *Be available to handle queries during normal office hours*
- *Keep all personal details confidential, unless court action or the Freedom of Information legislation makes it necessary to release information.*
- *Discourage retrospective planning applications when there is no prospect of an approval*
- *Only take formal enforcement action where there is a breach of planning control, and where the action is proportionate and significant benefit is likely to result.*

4.0 TIMESCALES

All enquiries will be registered and acknowledged within 5 working days, with the exception of High Priority cases. You will receive confirmation of the enforcement case number and the officer dealing with your enquiry.

Given the large number of enquiries received it is necessary to prioritise cases. Site visits will be undertaken within with 24 hours or 30 days depending on the priority of the enquiry. Table 2 below details the priority bandings.

Following the visit, you will be notified of the course of action that the Local Planning Authority intends to take next.

Table 2: Enforcement Priorities

Priority	Considerations	Target time for visiting	Response time to enquirer
High	<p><i>Irreversible Harm to The Environment</i></p> <ul style="list-style-type: none"> • <i>Unauthorised works to a listed building</i> • <i>Irreversible harm to amenity of a Conservation Area</i> • <i>Unauthorised works to trees covered by a Tree Preservation Order or in a conservation area</i> • <i>Works affecting a protected landscape included but not limited to a SAC, SSSI or SLINC</i> 	24 hours	Within 3 working days

<p>Medium</p>	<p><i>Significant Reversible Harm to Amenity or the Environment</i></p> <ul style="list-style-type: none"> • <i>Development prior to compliance with the discharging of conditions on a planning approval</i> • <i>Breach which results in serious demonstrable harm to amenity of neighbourhood</i> • <i>Unauthorised development which is in breach of planning policy</i> • <i>Source of significant public complaint</i> • <i>Unauthorised advertisements that have a detrimental impact on highway safety in the view of the Councils Highways service.</i> 	<p><i>Within 10 working days</i></p>	<p><i>Within 28 working days</i></p>
<p>Low</p>	<p><i>Minor Reversible Harm to Amenity or the Environment</i></p> <ul style="list-style-type: none"> • <i>Unauthorised development which is not the source of significant public complaint</i> • <i>Erection of unauthorised advertisements</i> 	<p><i>Within 30 working days</i></p>	<p><i>Within 40 working days</i></p>

5.0 PLANNING ENFORCEMENT OPTIONS

An objective of planning enforcement is resolving problems by negotiation and persuasion. However, there are a number of cases which require formal enforcement action to be taken. Where it is deemed necessary to take such action, the parties will be advised of the action to be taken. The owner/operator affected by the notice will also be advised of any rights of appeal and the penalties for non-compliance.

The Council has adopted a harm assessment form which provides a ‘score system’ to assist in the prioritisation of cases and help to determine whether it would be expedient to pursue an identified breach of planning control, on a case by case basis. Cases which score below a specified threshold will not normally be pursued, though a retrospective planning application may be invited.

Table 3: Planning Enforcement Actions

Status of the Investigation	The Council’s Actions
<i>No breach of planning control has been identified</i>	<i>The Council will write to the complainant to advise them of our findings and the investigation will be closed.</i>
<i>A breach of planning control has been identified where it is not expedient to take action</i>	<i>The Council will write to the complainant to advise them of its findings and provide an explanation as to why no action will be taken in this instance. The investigation will be closed.</i>
<i>A breach of planning control has been identified and retrospective planning application may regularise the breach.</i>	<p><i>The Council will write to the person responsible for the breach of planning control and explain why the works/use require planning permission and provide advice on how permission can be applied for.</i></p> <p><i>The Council expects a planning application to be submitted within 28 days. If an application is not submitted, the Council will decide whether it would be expedient to pursue enforcement action.</i></p> <p><i>The Council will write to the complainant to confirm a retrospective planning application is being sought to regularise the planning breach</i></p>

<p><i>A breach of planning control has been identified and the matter needs to be addressed.</i></p>	<p><i>The Council will write to the complainant advising of the need for action by the owner.</i></p> <p><i>The case will be given a priority level.</i></p> <p><i>The Council will also write to the person(s) responsible for the breach to advise them what steps they need to take to address the breach of planning control and the timescales within which those steps must be taken. The Council will also advise of the consequences of not complying with its request.</i></p>
<p><i>Further investigation is required.</i></p>	<p><i>The Council will write to the complainant to advise them of its initial findings.</i></p> <p><i>The case will be given a priority level and further investigations will be undertaken by the case officer.</i></p> <p><i>The Council will write to the person(s) responsible for the breach to advise them of the information that it needs. This may involve issuing a Planning Contravention Notice (PCN) which must be completed and returned to the Council within 21 days. A PCN may also be issued in the above circumstances.</i></p>

6.0 PLANNING ENFORCEMENT POWERS

6.1 Enforcement Actions

This is a summary of the main possible actions; more details can be found in the Local Planning Enforcement Policy.

- *Planning Contravention Notice (PCN) – in most cases this will be the first step in resolving a breach of planning control. It is the main method for gathering information, possibly including a formal meeting, regarding suspected breaches of planning control. The intention of a PCN is also to send a clear warning that further formal action is being considered once the facts of the case have been established.*
- *Enforcement Notice: this is the most common form of action taken. The notice will specify what the breach of planning control is and the steps needed to put matters right. It also specifies a time before it comes into effect during which time an appeal can be made.*
- *Stop Notice: in exceptional circumstances where a breach continues to cause serious harm to either amenity, public safety or the environment, the Council may in addition to an enforcement notice consider serving a Stop Notice.*
- *Temporary Stop Notice: recently introduced by the Government, can be served without an accompanying Enforcement Notice and can halt activity for a maximum period of 28 days where there is serious harm that needs to be stopped immediately.*
- *Breach of Condition Notice: used when certain conditions placed on a planning permission have not been complied with.*
- *Section 215 Notice when the condition of land or a building is adversely affecting the amenity of an area*
- *Prosecution for unauthorised works to protected trees or listed buildings or where adverts are displayed without consent.*

6.2 Proceeds of Crime Act

Any benefit derived from a breach of planning control which has continued in breach of a formal notice, in the form of financial gain or income, may be forfeit under the provisions of the Proceeds of Crime Act. Act.

7.0 WHAT IF A COMPLAINT IS MADE ABOUT YOUR PROPERTY OR DEVELOPMENT?

If a complaint is received about your property or development then the Local Planning Authority (LPA) has a duty to investigate the complaint in order to establish whether or not there has been a breach of planning control. It is often the case that breaches of planning control are not intentional and may arise from a misunderstanding or the person involved being unaware of planning regulations, and in many cases, it is established that there has been no breach of planning control.

7.1 Your responsibilities

If you receive a letter or a visit from an enforcement officer then we would encourage you to respond quickly, positively and to provide any required information so that the matter can be resolved quickly to the benefit of all parties.

The LPA will not reveal the details or identity of the complainant(s) to you. The investigating enforcement officer will confirm to you as soon as practicable whether or not it is considered that there has been a breach of planning control, and in cases where there has been no breach the matter will usually be resolved quickly.

In cases where a resolution may be negotiated, the enforcement officer will be happy to enter into discussions; however, we will not accept undue delays to required actions or responses during these negotiations and will expect you to respond within stated timeframes.

In some cases, however the unauthorised development or activities will not be considered acceptable and you will be requested to cease/remove the works in order to avoid a formal notice being served upon you.

7.2 Consequences of unauthorised development

Property owners should be aware that development that does not benefit from the necessary planning permission is unauthorised. Any unauthorised development could delay or potentially prevent a future sale of the property if the relevant permissions do not show up on searches. Additionally, any formal enforcement notices served will be registered with the Councils land charges section and will appear during any searches on the property. Consequently, it is in the owner's interest to have all necessary planning permissions in place and any enforcement issues resolved.

7.3 The Investigation

The planning enforcement officers have a right of entry onto any land without warrant in order to investigate an alleged breach of planning control. If it is necessary to enter your house (and not just the garden) then you are entitled to 24 hours' notice. It is an offence to wilfully obstruct an enforcement officer exercising their right of entry and further action will be taken should this be the case, including if necessary a warrant being secured from court.

Upon receipt of a complaint the enforcement officer will usually visit the site concerned without advanced warning being given. The site visit may be unaccompanied and the land owner or developer does not have to be present. At the site visit the enforcement officer will make themselves known to any person(s) present and show the appropriate identification when they enter the site. Should the land owner or occupier not have been present at the time of the initial site visit and it was not possible to gain access, or should it be necessary to contact the land owner or occupier after establishing that there is a breach of planning control on the site then a letter will be sent to the owner and/or occupier. The letter will request contact to be made with the enforcement officer and in some cases requiring specific actions taken within a specified timeframe. It is recommended that you respond to this correspondence as soon as possible.

8.0 PHYSICAL AND VERBAL ABUSE TOWARDS OFFICERS

The Council will not tolerate any physical or verbal abuse towards its planning enforcement officers. Where necessary the Council will use legal action to prevent abuse, harassment or assaults on its Officers.

9.0 FURTHER INFORMATION AND CONTACT DETAILS

This guidance gives a brief overview of planning enforcement, further details such as legislation and greater detail on powers and actions of enforcement can be found in the Local Planning Enforcement Plan. [WEB LINK](#)

We are constantly looking at ways to improve our services and welcome comments on this Enforcement Policy and any other matter relating to our Service. Contact details are given below:

By Post

Development Management Service

Newcastle-under-Lyme Borough Council

Castle House

Barracks Road

Newcastle-under-Lyme

Staffordshire

ST5 1BL

To ensure your complaint is immediately logged into our enforcement system please use the Council's on-line form at:

<https://www.newcastle-staffs.gov.uk/all-services/planning/planning-enforcement>

Alternatively you may submit your complaint is submitted by E-mail. As this service requires additional data handling to enter the complaint into the system, please allow an addition two working days for the case to be registered: planningenforcement@newcastle-staffs.gov.uk

We cannot register complaints made verbally as we require written evidence of a complaint to present to the courts if we proceed to prosecution in in any matter. You can however speak to use about the possibility of submitting a complaint or to enquire about an ongoing matter by telephone: 01782 742408

Advice on how to make an enquiry about unauthorised development or what to do if you carry out works or a change of use without planning permission can be obtained from the Councils Planning web site at: <https://www.newcastle-staffs.gov.uk/all-services/planning/planning-applications/planning-applications-forms>

APPENDIX 5: ENFORCEMENT LOG SHEETS

**RECORD OF WITNESS IN CONNECTION WITH
A BREACH OF PLANNING CONTROL**



ALLEGED BREACH OF PLANNING CONTROL:

ADDRESS:

Date	Times (from and to)	What is happening and where it is happening	Any vehicle registrations involved and persons present (name or description)

I certify that the entries on the sheet are true and are made at the time of observation of the events stated.

I would be willing to act as a witness in court or at a planning inquiry Yes/ No (please circle)

Signed.....

Name.....

Date.....

This page is intentionally left blank

Classification: NULBC UNCLASSIFIED

FORMER SEVERN TRENT WATER SITE, HAREWOOD STREET, TUNSTALL, STOKE-ON-TRENT
LAND RECOVERY LIMITED

SOTCC ref 65226/FUL (NuIBC ref 348/272)

The Borough Council has been consulted by the City Council on an application for a temporary permission (7 years) for groundworks (retrospective), a change of use of the site from a water treatment works to open storage depot (B8 storage distribution), the erection of containment areas and the formation of associated hardstanding, landscaping and infrastructure.

The site is located within the Stoke-on-Trent Outer Urban Area as indicated on the Local Development Framework Proposals Map.

For any comments that the Borough Council may have on these proposals to be taken into account, they have to be received by the City Council by no later than 24th June.

RECOMMENDATION

That the City Council be informed that the Borough Council has no objections to the proposed development subject to any appropriate conditions that the City Council deem necessary, with particular regard to highway matters and air quality.

Reason for Recommendation

The supporting information indicates that the development will not affect the interests of the Borough by virtue of highway impacts, air quality or noise.

Key Issues

As indicated above, the Borough Council has been consulted by the City Council on an application for full planning permission for the change of use of the site from use as a former waste treatment works to B8 open storage use to support the aggregates recycling facility on adjacent land (the site known as “the Chemical Lane site”). Planning permission is requested on a temporary basis for a period of seven years.

The site area is 5.7ha. The boundary between the Borough and the City lies to the west of the application site on the other (Western) side of the West Coast Main railway line.

The Borough Council has been asked for its views on this proposal – the City Council being the Planning Authority. The only considerations are the issues which might affect the interests of the Borough. Such issues do not include a consideration of the principle of the development, however highway impacts and environmental matters are issues that potentially affect the interests of the Borough and are considered below.

Impact on the highway network

The site will continue to be accessed via the existing access point in the north-west corner of the site.

The Transport Assessment that accompanies the application concludes that the proposed B8 open storage use at the site can suitably be accommodated on the surrounding highway network. Furthermore, the access point and internal circulation routes would provide suitable space for access/egress and manoeuvring of vehicles in a safe and efficient manner. It is stated that given the limited number of HGV movements associated with the B8 open storage operation, there would be no material impact on the local highway network. It goes on to state that in time, once the recently implemented rail infrastructure on the adjacent Chemical Lane site is more established, the majority of materials will be moved to/from the site via rail further reducing the reliance on the local highways infrastructure.

The proposal does not, therefore, raise any highway safety concerns that could affect the interests of the Borough.

Environmental Issues

Assessments have been submitted in respect of air quality, dust and noise impact. The assessments conclude that the proposed change of use would not result in any adverse environmental impacts.

In light of these conclusions, it is not considered that the development would result in any environmental impacts on the Borough.

APPENDIX

Policies and proposals in the Development Plan relevant to this recommendation

[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 ASP2: Stoke-on-Trent Outer Urban Area Spatial Policy
Policy CSP9: Comprehensive Area Regeneration

Other Material Considerations include:

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

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

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

Relevant Planning History

Permission has been granted for the following developments on the site:

51067/REN	Renewal of planning permission ref. 47686 (employment area) – Approved 2011
SOT/47686/OUT	Employment Area comprising B1 offices and workspaces, B2 industrial units, B8 warehousing, leisure facilities, open space and associated footpaths and landscaping (subject to variation of conditions attached to planning permission ref. SOT/42894) – Approved 2008
SOT/42894/OUT	Employment area (Classes A3, B1, B2, B8 and D2) and associated highways, footpaths and landscaping works (outline) – Approved 2007

Applicant's Submission

The application is supported by a number of documents as follows:-

- Transport Assessment
- Travel Plan
- Flood Risk assessment
- Coal Mining Risk Assessment
- Noise impact Assessment
- Dust Risk Assessment
- Ecological Impact assessment
- Heritage Impact Assessment
- Phase 1 Geo-Environmental Investigation

All these documents are available to view on Stoke City Council's website <https://planning.stoke.gov.uk/online-applications> using the City Council reference 65226/FUL.

Background Papers

Planning Policy documents referred to
Planning files referred to

Date Report Prepared

3rd June 2020

This page is intentionally left blank

SEABRIDGE COMMUNITY EDUCATION CENTRE, ROE LANE
STAFFORDSHIRE COUNTY COUNCIL

19/00515/OUT

The application was for outline planning permission for the demolition of all existing buildings at the former Seabridge Community Education Centre, and the erection of circa 55 dwellings with associated infrastructure, landscaping and open space. The application was refused by the Planning Authority on 25th September 2019 and that decision is now the subject of an appeal.

RECOMMENDATIONS

That the Committee confirms:

- 1) that it wishes officers to now write to the appellant to confirm that the obligations referred to in the recommendation that was provided to the Planning Committee on 10th September 2019 are required by the Local Planning Authority should the appeal be allowed;
- 2) that in preparing the Council's Statement of Case, officers include reference to these above requirements; and
- 3) that should the appellant seek before the appeal is determined to enter into a Section 106 agreement with the Council containing such obligations, officers have the appropriate authority to enter into such an agreement.

Reason for report

The application was refused planning permission on the 25th September 2019. An appeal has been lodged against the Council's decision. This report is solely concerned with the issue of planning obligations.

Background

The Planning Authority refused planning permission for this application on the 25th September 2019 for the following reasons:

1. *The proposed development represents an inappropriate overdevelopment of the site by virtue of the number of dwellings proposed which would harm the character and appearance of the area contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the aims and objectives of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document, in particular Section 7, and the aims and objectives of the National Planning Policy Framework (2019).*
2. *The access to the site is inadequate and unable to accommodate the scale of the development proposed and as such the development would result in issues of highway safety contrary to the aims and objectives of the National Planning Policy Framework (2019).*

The recommendation before the Planning Committee was that planning permission be granted subject to the applicant first entering into Section 106 obligations to secure the following:-

- i. A management agreement for the long-term maintenance of the open space on the site
- ii. A contribution of £144,815.00 (on the basis that the development as built is for the full 55 units and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy), towards the provision of education places at Seabridge Primary School
- iii. In perpetuity, provision of 25% of the dwellings on-site as affordable units

The decision notice of the Local Planning Authority, drawn up on the basis of the resolution of the Planning Committee of the 10th September 2019, makes no express reference to these obligations, which at the time of the decision of the Committee were not “on the table”.

An appeal has now been lodged against the Council’s decision and the appellant has confirmed that they wish to prepare planning obligations for consideration by the Inspector.

The decision of the Authority has been made with respect to 19/00515/OUT, the decision notice has been issued, and is now the subject of the appeal. There is no suggestion that the Council either can or should add to its grounds of refusal of the application. However, your officers would submit that it is appropriate and timely to make the Local Planning Authority’s position with respect to planning obligations absolutely clear.

The appellant has requested that the Borough Council, and other parties including the County Council, enter into an agreement under Section 106 that would become operative should the appeal be allowed - there being limitations in the use of obligations by unilateral undertakings as it is arguable that they cannot impose requirements or obligations upon any person other than the signing party. The obligations that were sought in this case should be secured by agreement rather than by unilateral undertaking. Agreeing to enter into an Agreement will not undermine the Council’s position with respect to the principle of the development - that it is unacceptable.

Application for Financial Assistance (Historic Buildings Grants) from the Conservation and Heritage Fund – 1 Gladstone Villas, Victoria Road, Newcastle (Ref: 20/21001/HBG)

RECOMMENDATION:

That the following grant is approved:-

- 1. £348 Historic Building Grant be given towards the repair of timber cladding boards and replacement timber finials.**

Purpose of report

To enable members to consider the application for financial assistance.

No. 1 Gladstone Villas is one of a pair of Victorian Villas situated within Stubbs Walk Conservation Area. The house is of red brick construction with blue brick banding and has decorative timber barge boards. The flat sections of cladding boards are rotten and have suffered damage in recent weather. The proposal is to replace these and the finials which are damaged.

Two competitive quotations have been received by contractors. The cost of the work is estimated at £3,480 including VAT. The building is a historic building within the Conservation Area, and the work is eligible for 10% grant towards the cost of the works.

The Conservation Advisory Working Party has not considered this application because due to the restrictions in place in response to the corona virus pandemic all meetings of this group have been suspended until further notice.

Financial Implications

Historic buildings and structures are entitled to apply for up to a maximum of £5,000 from the Conservation and Heritage Grant Fund. The intervention rate is 20% of the cost of the work for Listed Buildings. Buildings within Conservation Areas or on the Register of Locally Important Buildings are eligible to apply for 10% of the cost of such work.

There is sufficient funding to meet this grant application with £8,000 in the Fund; allowing for commitments.

This page is intentionally left blank