

Public Document Pack

Date of meeting Tuesday, 18th August, 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 - 10)
To consider the minutes of the previous meeting held on 21 July 2020.
- 4 APPLICATION FOR MAJOR DEVELOPMENT - LAND OFF ECCLESHALL ROAD, LOGGERHEADS. PLANT DEVELOPMENTS LTD. 20/00158/REM** (Pages 11 - 24)
This application includes a supplementary item.
- 5 APPLICATION FOR MINOR DEVELOPMENT -ST JOHN THE EVANGELIST RC SCHOOL, GLOUCESTER ROAD, KIDSGROVE. ENGIE. 19/00804/FUL** (Pages 25 - 38)
This application contains a supplementary item.
- 6 APPLICATION FOR MINOR DEVELOPMENT - LAND TO THE WEST OF NEWCASTLE ROAD (A53). BLACKBROOK MR D AND T CLEE, J WILSON & M LEE. 20/00368/FUL** (Pages 39 - 58)
This application includes a supplementary item.
- 7 APPLICATION FOR MINOR DEVELOPMENT - LAND NORTH OF PEPPER STREET, KEELE. KEELE HOMES LIMITED. 20/00431/DOB** (Pages 59 - 62)

8 APPLICATION FOR MINOR DEVELOPMENT - FOOTPATH OFF HIGH STREET B5367, HIGH STREET, KNUTTON. EE LIMITED. 20/00496/TDET (Pages 63 - 70)

This application includes a supplementary item.

9 OPEN ENFORCEMENT CASES (Pages 71 - 72)

10 QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED (Pages 73 - 78)

11 CHANGES TO THE PLANNING SYSTEM 2020 (Pages 79 - 88)

12 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the following item(s) because it is likely that there will be a disclosure of exempt information as defined in paragraphs 1,2 and 3 in Part 1 of Schedule 12A of the Local Government Act 1972.

13 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, Bert Proctor, Dave Jones, 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 Mark Holland

Stephen Sweeney Barry Panter

Gary White Ian Wilkes

Ms Sylvia Dymond 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, 21st July, 2020
Time of Commencement: 6.00 pm

Present:	Councillor Andrew Fear (Chair)		
Councillors:	Miss Marion Reddish	Dave Jones	Kenneth Owen
	John Williams	Mrs Helena Maxfield	
	Paul Northcott	Mrs Sue Moffat	
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	

Note: In line with Government directions on staying at home during the current stage of the CV-19 pandemic, this meeting was conducted by video conferencing in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020.

1. **APOLOGIES**

Apologies were received from Councillor Proctor.

2. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

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

Resolved: That the minutes of the meeting held on 23 June, 2020 be agreed as a correct record.

4. **APPLICATION FOR MAJOR DEVELOPMENT - FORMER FIRST BUS DEPOT, LIVERPOOL ROAD, NEWCASTLE-UNDER-LYME. MORBAINE LIMITED. 20/00131/COU**

Amended recommendation proposed by Councillor John Williams and seconded by Councillor Marion Reddish.

The amendment related to the removal of condition (xv) on the agenda report which was 'no approval granted for right turn access'. The Planning Committee agreed that

the applicant and Highway's Authority needed to have further discussions on this matter.

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

- (i) Commencement time limit
- (ii) Approved plans
- (iii) Hours of site works
- (iv) Maximum noise rating level
- (v) Noise limiting equipment
- (vi) Noise management scheme
- (vii) Restriction on location of noise making activities
- (viii) Hours of deliveries and collections to site
- (ix) Ventilation and extraction equipment
- (x) Waste storage and collection arrangements
- (xi) External lighting scheme
- (xii) Lighting to be shielded
- (xiii) Electric charging provision
- (xiv) Tree protection
- (xv) Full details of site access
- (xvi) Provision of parking and turning areas
- (xvii) Closure of existing site accesses
- (xviii) Implementation of Travel Plan
- (xix) Details of secure weatherproof cycle parking
- (xx) Details of drainage facilities for the car park
- (xxi) Details of any gates
- (xxii) Construction Management Plan

5. APPLICATION FOR MAJOR DEVELOPMENT - SITE OF FORMER NEWCASTLE BAPTIST CHURCH, LONDON ROAD, NEWCASTLE. WISH DEVELOPMENTS. 20/00336/FUL

Resolved: A. That, subject to the applicant entering into a planning obligation by 28th August 2020 that preserves the Council's position in respect of obligations secured prior to the grant of permission 14/00477/FUL, the application be permitted subject to the undermentioned conditions:

- (i) Variation of condition 2 to list the revised plans
- (ii) Window frames and door colour materials
- (iii) Car park management scheme
- (iv) Provision and retention of the access, parking and turning areas
- (v) Details of gates to refuse and cycle store
- (vi) Closure of redundant site access on Vessey Terrace
- (vii) Provision of surface water drainage interceptor
- (viii) Submission of Construction Management Plan
- (ix) Details of cycle parking for 22 cycles
- (x) Maximum noise levels
- (xi) Glazing and ventilation

- (xii) Any other conditions attached to planning permission 14/00477/FUL that remain relevant at this time (which includes facing materials)

B. That, failing completion by the date referred to in the above resolution (A) of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the planning application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstances, and, in such circumstances, the potential financial contributions towards affordable housing provision and public open space; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

6. APPLICATION FOR MAJOR DEVELOPMENT - THORP PRECAST, APEDALE ROAD, CHESTERTON. HARVEY THORP. 20/00354/FUL

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

- (i) Standard time limit for commencement of development;
- (ii) Approved plans;
- (iii) Gantry crane colour – goosewing grey;
- (iv) Trailer parking and turning provision;
- (v) Prior approval of external lighting;
- (vi) Additional soft landscaping, including native species;
- (vii) Tree protection measures;
- (viii) Unexpected ground water contamination;
- (ix) Intrusive coal mining site investigations and remedial works implementation;
- (x) Flood risk mitigation measures and Sustainable Drainage Strategy.

7. APPLICATION FOR MAJOR DEVELOPMENT - A1 SKIPS, CHEMICAL LANE, NEWCASTLE UNDER LYME. A1 SKIPS (S-O-T) LTD. SCC REFERENCE N.20/01/251 W (NULBC REF 20/00446/CPO)

Resolved: That the County Council be informed that this Council raises no objections to the proposed development subject to appropriate conditions that the County Council deem necessary.

8. APPLICATION FOR MINOR DEVELOPMENT - TELECOMMUNICATIONS MAST, CLAYTON ROAD, NEWCASTLE. MBNL FOR AND ON BEHALF OF H3G UK LIMITED. 20/00428/TDET

Resolved: (i) That prior approval is required; and
(ii) That prior approval be granted.

9. APPLICATION FOR MINOR DEVELOPMENT - ROUNDABOUT AT CEDAR ROAD AND AUDLEY ROAD, CHESTERTON. MBNL FOR AND ON BEHALF OF H3G UK LIMITED. 20/00462/TDET

Resolved: (i) That prior approval is required; and

- (ii) That prior approval be granted.

10. **APPLICATION FOR OTHER DEVELOPMENT - BETLEY COURT, MAIN ROAD, BETLEY. DR NIGEL BROWN. 20/00405/LBC**

Resolved: That, subject to no objections being received from the Amenity Societies and Historic England, the application be permitted subject to the undermentioned conditions:

- (i) Time limit.
- (ii) Design and Access Statement

11. **5 BOGGS COTTAGE, KEELE,. 14/00036/207C3**

The Council's Development Management Team Manager, Elaine Moulton advised that the Council was still awaiting confirmation of the Hearing date from the Planning Inspectorate.

- Resolved:**
- (i) That the information be received.
 - (ii) That a further update report be brought to the 15 September, Planning Committee.

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

- Resolved:**
- (i) That the information be received.
 - (ii) That a further update report be brought to the 15 September, Planning Committee.

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

Councillor Amelia Rout spoke on this item.

There had been ongoing issues with anti-social behaviour in this area, particularly around the tyre/basket swing. Members also felt that the addition of six benches in this area would further exacerbate the problem and discussed options.

The developer had previously stated that if six benches were not required, any money would be used to fund a replacement for the swing. Members agreed that replacing the tyre/basket swing with equipment that was only suitable for smaller children.

Councillor Dave Jones proposed that two swings only be placed in this area and that the offer to replace the swing with something more sensible, by the developer be taken up. The Chair, Councillor Fear seconded the proposal.

- Resolved:** That only two benches are now required (not the six previously requested) and that any money saved be put towards funding the replacement of the tyre/basket swing with equipment that is only suitable for smaller children.

14. **UPDATE ON BREACHES OF PLANNING OBLIGATIONS**

- Resolved:** (i) That the information be received.
- (ii) That a further report be brought to the 15 September, Planning Committee

15. ANNUAL DEVELOPMENT MANAGEMENT PERFORMANCE REPORT 2019/2020

Councillor Northcott was pleased with the figures in the report stating that the Planning Authority was working well and hoped that the figures would be maintained and improved upon.

- Resolved:** (i) That the report be received.
- (ii) That the Head of Planning and Development seeks to maintain and improve performance of the Development Management Team (including the Technical Support team) to meet the targets set out in the Planning Service Plan for 2019/20).
- (iii) That the Mid-Year Development Management Performance Report 2020/21 be submitted to Committee around November/December 2020 reporting upon performance achieved for the first half of the complete year 2020/21.

16. APPEAL DECISION - FIELD HOUSE, SANDY LANE, NEWCASTLE. 19/00365/OUT

Resolved: That the appeal decision be noted.

17. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANT) - CLAYTON HALL ACADEMY, CLAYTON LANE, NEWCASTLE (REF: 20/21002/HBG)

Resolved: That a grant of £2,006 be given towards the repair of the original staircase.

18. URGENT BUSINESS

There was no Urgent Business.

COUNCILLOR ANDREW FEAR
Chair

Meeting concluded at 7.25 pm

This page is intentionally left blank

LAND OFF ECCLESHALL ROAD, LOGGERHEADS
PLANT DEVELOPMENTS LTD

20/00158/REM

The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 44 bungalows.

This application for the approval of reserved matters follows the granting of an outline planning permission in April 2018 for residential development for up to 55 homes with associated landscaping and infrastructure (16/00866/DEEM4). Details of the access from the highway network were approved as part of the outline consent.

The application site lies outside the village envelope of Loggerheads and within the open countryside and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. The site area is approximately 2.25 hectares.

The 13 week period for the determination of this application expired on 28th May 2020 but the applicant has agreed an extension to the statutory period until 21st August.

RECOMMENDATION

PERMIT subject to conditions relating to the following:

- **Link to outline planning permission and conditions**
- **Approved plans**
- **Provision of access, parking and turning areas for each dwelling**
- **Retention of garages for parking**
- **Provision of cycle storage for dwellings with no garage**
- **Adoption plan**
- **Details of traffic calming measures on internal road layout**
- **Detailed tree protection plan**
- **Site specific Arboricultural Method Statement**
- **Landscaping scheme**
- **Details of paths, seating and planting within public open space**
- **Details of linkages from public open space to woodland**
- **Details of management of public open space**
- **Details of materials**
- **Drainage details**

Reason for Recommendation

The principle of the use of the site for residential development has been established with the granting of the outline planning permission. The design and layout of the proposal is considered acceptable and to be in accordance with the aims and objectives of the National Planning Policy Framework and the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD. There would be no material adverse impact upon nature conservation interests, highway safety or residential amenity as a consequence of the internal layout and subject to conditions, the proposed landscaping and open space within the site is considered acceptable. There are no other 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

Additional information has been sought from the applicant where necessary and obtained and the proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 44 bungalows. The principle of the residential development of the site was established by the granting of outline planning permission 16/00866/DEEM4 in April 2018 and details of the access from the highway network were approved as part of that outline consent.

The application site lies outside the village envelope of Loggerheads and within the open countryside and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. The site is surrounded to the north, south and west by Burnt Wood ancient woodland, parts of which are designated as a Site of Special Scientific Interest.

The outline consent for the site was granted subject to a condition that required any reserved matters applications for the site to accord with the principles set out in the Design and Access Statement prepared by WYG. Your Officer has considered the application against those principles and is satisfied that it accords with that condition of the outline consent.

The issues for consideration now are:-

- Is the proposal acceptable in terms of its design and impact on the form and character of the area?
- Would there be any significant impact upon any nature conservation interests?
- Would there be any adverse impact on residential amenity?
- Is the internal road layout and parking provision acceptable in highway safety terms?
- Is the proposed landscaping and open space within the site acceptable?
- Is the affordable housing layout acceptable?

Is the proposal acceptable in terms of its design and impact on the form and character of the area?

Section 12 of the NPPF sets out policy which aims to achieve well-designed places. Paragraph 124 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. At paragraph 130 it states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy CSP1 of the CSS lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the NPPF.

Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. R3 of that document states that new development must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

RE5 states that new development in the rural area should amongst other things respond to the typical forms of buildings in the village or locality and that new buildings should respond to the materials, details and colours that may be distinctive to a locality.

R13 states that the assessment of an appropriate site density must be design-led and should consider massing, height and bulk as well as density. R14 states that developments must provide an appropriate balance of variety and consistency.

Policy LNPG2 of the Loggerheads Neighbourhood Plan states that to be supported, proposals for ten or more houses must include a mix of types of accommodation to meet requirements identified in the latest assessment of local housing needs including accommodation suitable for first time buyers and the elderly. At least a third of new homes, unless it can be demonstrated there is not a need for this level of provision must comprise a combination of one or two bedroomed properties and one or two bedroomed properties suitable to provide independent living for the elderly.

Policy LNPP1 states that to be supported, new development must demonstrate high standards of design. A number of requirements are listed, the most relevant of which are as follows:

- Complementing the established character of the surrounding context in terms of scale, density, massing, height and degree of set-back from streets and spaces.
- Creating attractive, safe and convenient environments for pedestrians.
Providing a mix of overlooked parking provision, as an integral part of layout, so that parking does not dominate streets and space.
- Include high quality materials, to complement those used in the surrounding context.
- Designing residential garages so that they do not obscure or dominate frontages and are in or behind the building line.

The proposed development would comprise 33 detached 2-bed and 3-bed bungalows and a mix of 11 1-bed and 2-bed semi-detached and terraced bungalows. The surrounding area comprises a mix of properties including two-storey dwellings and bungalows adjacent to the site on the opposite side of Eccleshall Road. Given the variety of dwelling size, density and style currently in Loggerheads, it is considered that the layout proposed would respect local character.

Although all the properties are to be bungalows, a mix of sizes are proposed and therefore it is considered that the scheme complies with Policy LNPG2 of the Neighbourhood Plan in terms of providing a mix of types of accommodation. Loggerheads Parish Council welcomes the proposal to build bungalows stating that it supports the Neighbourhood Plan.

The materials would comprise red brick and grey roof tiles. Detailing would be simple and unfussy with hipped roofs, gable features and brick soldier courses. Properties would generally be set back from the pavement to allow for limited frontage landscaping. Many of the dwellings would have an integral garage with additional parking provided in front of the dwellings.

Your Officer's view is that the design of the dwellings and the materials palette proposed would provide a consistency throughout the site and would also provide sufficient articulation to create variety and interest in the streetscene. The layout and density of the proposed scheme and the proposed house types reflect local character and it is considered that the proposal would be acceptable in terms of its design and impact on the form and character of the area.

The site is surrounded on 3 sides by Burnt Wood. It is a well-contained site and therefore views of the site are limited. It is not considered that the development would have such an adverse impact on the character or quality of either the village or the wider landscape to justify a refusal.

Would there be any significant impact upon any nature conservation interests?

The site is surrounded to the north, south and west by Burnt Wood ancient woodland, parts of which are designated as a Site of Special Scientific Interest (SSSI). Paragraph 175 of the NPPF states that development on land within or outside a SSSI likely to have an adverse effect on it should not normally be permitted. Paragraph 175 goes on to state that planning permission should be refused for development resulting in loss or deterioration of irreplaceable habitats, including ancient woodland, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

In considering the outline application in 2017, the matter of impact on the ancient woodland and SSSI was assessed fully. The outline application was accompanied by an Extended Phase 1 Habitat

Survey which recommended a number of mitigation measures including a requirement for a 5m buffer around the site to protect the integrity of the woodland. The application was also accompanied by a Tree Survey Report which recommended that an Arboricultural Impact Assessment and a Tree Protection Plan are produced once the detailed design of the scheme is finalised. Subject to a condition requiring the developer to fund signs at the main entrance points to Burnt Wood and provide information about the SSSI in homeowners' packs, Natural England raised no objections to the principle of the development.

Both the Tree Survey and Habitat Survey submitted with the outline application concluded that subject to mitigation, there would be no significant adverse impact upon either the trees or the habitats within the woodland. Although the Woodland Trust recommended a buffer zone around the site of at least 30m, Natural England's Standing Advice on Ancient Woodland and Veteran Trees states that mitigation measures will depend on the development but could include a number of measures including leaving an appropriate buffer zone of semi-natural habitat between the development and the ancient woodland. It states that depending on the size of the development, a minimum buffer should be at least 15 metres. The Phase 1 Habitat Survey that accompanied the outline application recommended a 5m buffer around the site to protect the integrity of the woodland. It stated that the buffer can be planted with native woody species and will reduce the risk of development directly impacting woodland edge habitats. In approving the outline application, the Council was satisfied that a 5m buffer in addition to the other mitigation measures recommended in the Phase 1 Habitat Survey and conditions regarding tree protection measures would provide sufficient protection for the woodland.

Conditions were attached to the outline consent including a requirement for the development to be carried out in accordance with the recommendations of the Extended Phase 1 Habitat Survey which included a requirement for a 5m wide buffer around the site. In accordance with the condition of the outline consent, the development now proposed includes a 5m buffer around the site.

Natural England raises no objections to the proposal subject to appropriate mitigation being secured in the form of an appropriate buffer zone to mitigate for the effects of the increasing amount of air pollution from the development on the interest features of Burnt Wood SSSI. The Woodland Trust objects to the proposal stating that the buffer zone should be at least 30m in order to avoid root damage and to allow for the effect of pollution from the development.

Objections have been received from residents and Loggerheads Parish Council stating that the proposed width of the buffer zone between the development and the ancient or semi-natural woodland (ASNW) is less than the Woodland Trust standard of 30m.

The Council has granted outline planning permission for the principle of up to 55 dwellings on the site subject to conditions that include a requirement for a 5m buffer. There has been no change in guidance since and therefore your Officer's view is that it is not now necessary at this reserved matters stage to revisit the matter and require a wider buffer.

Would there be any adverse impact on residential amenity?

This falls into 2 elements – the residential amenity of existing adjacent occupiers and the residential amenity of future residents of the development. The NPPF states at paragraph 127 that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Existing occupiers' amenity

There are two existing dwellings on Eccleshall Road immediately adjacent to the site and dwellings on the opposite side of Eccleshall Road. The distance between the existing and proposed properties would exceed the distances recommended in the Council's Space Around Dwellings SPG. The proposed dwellings would be bungalows which would further minimise any potential overlooking and it is considered therefore that there would be no significant adverse impact on the amenity of the occupiers of the existing dwellings.

Amenity of future occupiers of the development

The distance between the proposed dwellings would comply with the recommendations of the Council's Space Around Dwellings SPG. A number of the proposed dwellings would have a garden length of less than the recommended 10.7m and a very small number would have a garden area marginally less than the recommended 65 square metres. Notwithstanding this, an acceptable level of outdoor space would be available for drying washing, sitting out and gardening and it is considered that the level of private amenity space would be sufficient for the bungalows proposed.

Is the internal road layout and parking provision acceptable in highway safety terms?

The means of access to the site was determined at the outline stage and therefore although objections have been received from both residents and the Parish Council on the grounds of increased traffic and highway safety concerns, the site benefits from outline consent, and an objection to the principle of the development in terms of its impact upon the highway network could not now be sustained.

The Highway Authority has no objections to the detail of the proposal subject to conditions. A number of their recommended conditions are already included on the outline consent and it is not necessary to repeat them now.

The proposal is considered acceptable in terms of impact on highway safety.

Is the proposed landscaping and open space within the site acceptable?

The Landscape Development Section (LDS) has some concerns regarding the submitted tree protection detail and recommends that permission should be subject to the submission of additional detail.

An area of Public Open Space (POS) is proposed in the southern corner of the site. The LDS states that the area should not be left as an isolated space and queries whether the existing site boundary fence would be retained or whether linkages would be made with the adjacent woodland. Play provision is requested in accordance with the Council's Open Space Strategy (OSS) and paths, seating and amenity planting should be included within the POS.

The amount of POS proposed accords with the requirement as set out in the OSS and is therefore acceptable. In terms of its location, although it would be sited at one end of the site rather than more centrally, given that it would connect into the network of footpaths in the adjacent woodland, it is considered to be appropriately located. The LDS recommends that play provision is required in accordance with the OSS, however this is an application for the approval of reserved matters and the outline consent was granted in accordance with the now superseded Green Space Strategy which did not require play provision on a site of this size. It would not be reasonable therefore to require play provision now.

The LDS raises concerns regarding the relationship of many of the dwellings to the woodland, particularly that the proximity of trees to the small rear gardens could lead to post development resentment of the trees by occupiers due to shading or damage to property and pressure for the felling or pruning of the trees. In response, shading diagrams have been submitted to give an idea of potential shading on the site. Although the diagrams show shading of the dwellings on the south-eastern boundary during the winter, during the summer there is no shade for the majority of the day. Although the concerns of the LDS are acknowledged, it is not considered that the impact would be so significant that a refusal could be justified on such grounds.

In conclusion, it is considered that the concerns of the LDS could be dealt with by the application of conditions. Subject to the approval of the details required by those conditions, the proposed landscaping and open space within the site is considered acceptable.

Is the affordable housing layout acceptable?

In accordance with the outline consent, 25% of the bungalows, all 1-bed and 2-bed units, would be affordable. The Housing Strategy Section is satisfied that the number and mix of affordable housing

units are compliant with policy and that the units have been sufficiently distributed across the site. Your Officer agrees that the layout achieves an acceptable level of integration and is satisfactory with regard to affordable housing.

Other matters

Detailed drainage information has been submitted in accordance with the requirements of the outline consent. Staffordshire County Council Flood Risk Team requires additional details regarding soakaways and microdrainage calculations but it is considered that an acceptable drainage scheme can be secured by condition.

APPENDIX

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

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

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

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

Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N17	Landscape Character – General Considerations
Policy N18	Areas of Active Landscape Conservation
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas

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

Policy LNPG2:	Housing Mix
Policy LNPP1:	Urban Design and Environment
Policy LNPP2:	Local Character & Heritage
Policy LNPT1:	Sustainable Transport

Other Material Considerations include:

National Planning Policy

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

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

Supplementary Planning Guidance/Documents

[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)

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

Relevant Planning History

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

Views of Consultees

The **Environmental Health Division** has no observations to make.

The **Highway Authority** has no objections subject to conditions regarding the completion of the access, provision of visibility splays, provision of access, parking and turning areas for each dwelling, garages to be retained for the parking of motor vehicles and cycles, provision of secure cycle storage, provision of pedestrian links into the site, provision of a pedestrian crossing on Eccleshall Road,

provision of adoption plan, securing of a highway works agreement for the main site access and off site highway works, details of traffic calming measures and submission of Construction Method Statement.

Natural England raises no objections subject to appropriate mitigation being secured in the form of an appropriate buffer zone to mitigate for the effects of the increasing amount of air pollution from the development on the interest features of Burnt Wood SSSI.

The **Woodland Trust** objects on the basis of damage and loss of Burnt/Bishops Wood, a Plantation of Ancient Woodland Site as designated on Natural England's Ancient Woodland Inventory (AWI).

The **Crime Prevention Design Advisor** states that the central portion of the site looks to very secure with outward facing properties overlooking the internal road and rear gardens backing onto one another to provide a degree of mutual security. Parking throughout the development would be well overlooked from the properties. Unfortunately, plots 1-5, SH6-7, 13-15 and 19-26 will have rear garden boundaries which will abut public space and which will consequently render them potentially more vulnerable and therefore the intruder-resistance of those side/rear garden boundaries will need to be suitably robust to compensate. The provision of a small number of well overlooked linkages from the site into the surrounding woodland and reinforcing the remainder of the woodland boundary in some suitable way might be worth considering. Recommendations are made for the physical security of the bungalows.

The **Landscape Development Section** make the following comments:

- Supports the replacement hedgerow on the frontage.
- Insufficient detail has been provided regarding tree protection.
- Sufficient public open space is proposed but it should not be left as an isolated space.
- Queries whether the existing site boundary fence would be retained or whether linkages would be made with the adjacent woodland.
- Play provision is requested in accordance with the Council's Open Space Strategy (OSS).
- Paths, seating and amenity planting should be included within the POS.
- No objections to the proposed landscaping subject to the inclusion of boundary planting.
- Concerns regarding the relationship of many of the dwellings to the woodland and potential post development resentment due to shading or damage to property.

The **Education Authority** states that a Section 106 Agreement was signed when the outline application was granted, and the education contribution amount and terms should be calculated in line with this.

Staffordshire County Council Flood Risk Team requires additional information regarding soakaways and microdrainage calculations.

Severn Trent Water has no objections subject to a condition requiring submission of drainage plans for the disposal of foul and surface water flows.

The **Environment Agency** has no comments to make.

The **Waste Management Section** has concerns about two locations indicated on the plans. Plots 13, 14 and 15 and the 5 properties marked 1B (between plots 18 and 19) would all need to present containers for collection on the highway which may present safety issues regarding visibility and lead to complaints about containers being left out between collections.

The **Housing Strategy Section** states that the number and mix of affordable housing units are compliant with policy and is satisfied that the units are sufficiently pepper-potted across the development.

Loggerheads Parish Council welcomes the proposal to build bungalows which supports the Neighbourhood Plan but raises concerns regarding the following:

- Road safety of children both crossing the busy Eccleshall Road and the likelihood that with no restrictions parents who drop children off at the nearby Hugo Meynell School will use this new estate for pre and post school parking as there are parking restrictions on Eccleshall Road. A condition that restricts parking on this site to residents only would be welcome.
- The proposed width of the buffer zone between the development and the ancient or semi-natural woodland (ASNW) is less than the Woodland Trust standard of 30m. The developer has not taken into consideration the Government Planning Policy Guidance (PPG) which states that a 15-metre buffer should be created.
- Neither the Tree Survey nor the Extended Phase 1 Habitat Survey make any reference to the Burntwood being ancient woodland and no recommendations.

No comments have been received by the due date from **United Utilities** or **National Grid Plant Protection** and therefore it must be assumed that they have no comments to make.

Representations

Nineteen letters of representation have been received. Objections are made on the following grounds:

- The Burntwood is very special ancient woodland and the proposed 5m buffer is not sufficient. A 30m buffer is required.
- The hedge has been severely cut back and although netting has been applied to prevent birds nesting, it has been done in an unsatisfactory manner.
- Properties so close to the woodland are at a higher risk from wildfires.
- Highway safety issues with additional traffic in close proximity to Hugo Meynell Primary School.
- Undue demand will be placed on the poor infrastructure and limited amenities available in Loggerheads.
- Impact on wildlife.
- Overdevelopment of the site.
- Some properties will experience undue shading from the trees.

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Tree Shading Diagram
- Arboricultural Impact Assessment
- Arboricultural Method Statement
- Infiltration Rate Report

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/20/00158/REM>

Background papers

Planning files referred to

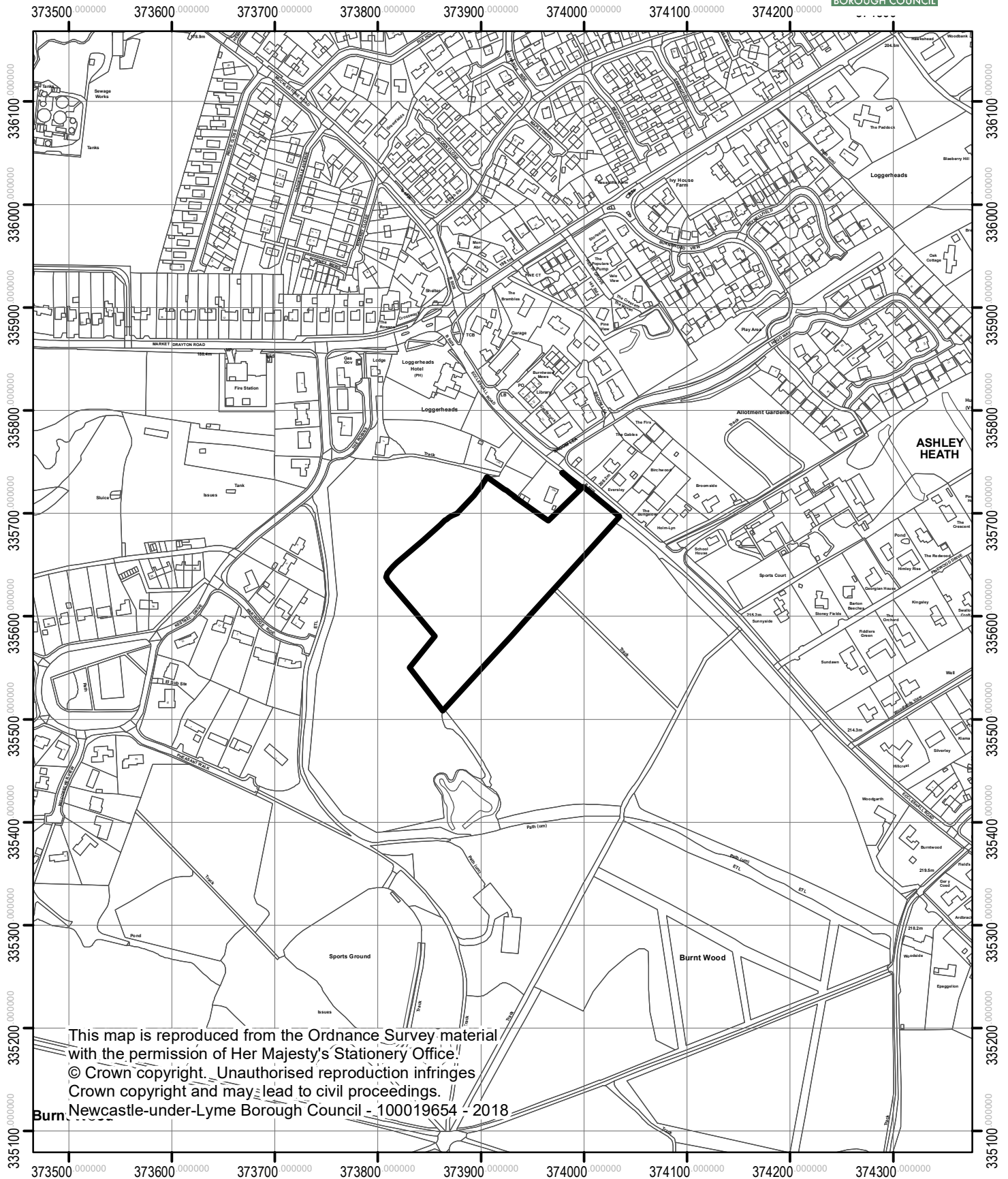
Planning Documents referred to

Date report prepared

31st July 2020

This page is intentionally left blank

Land off Eccleshall Road, Loggerheads, Market Drayton



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 - 2018

This page is intentionally left blank

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
18TH AUGUST 2020

Agenda Item 4

Application Ref. 20/00158/REM

Land off Eccleshall Road, Loggerheads

Since the publication of the main agenda report a further letter of objection has been received. In addition to points already summarised in the main agenda report, the following comments are made:

- The application is being rushed to Committee despite the developer and Council ignoring government advice and residents' concerns because the Council wish to sell the land. The Council must show that it has judged the planning application fairly despite its interest in the sale of the land.
- Although the woodland is in part somewhat degraded by coniferous planting, recent replanting of broadleaf species suggests the Forestry Commission's desire to restore the woodland. The woodland is highly valuable.
- Council officers have been informed of the Government PPG and have ignored it out of ignorance or required obedience. If elected officers refuse to correctly inform the staff of the Council to correctly carry out their duties then it is clear that a systemic abuse of power is at work within the Council.
- It is requested that elected members ensure that either:
 - The developers are informed that the application is not ready for Committee because government guidance has not been complied with
 - The sale of the land is withdrawn
 - The elected members agree to refuse permission
- Additionally, the particulars of this sale require investigation.
- Should the Council decide to illegally grant planning permission, a judicial review will be sought from the High Court and details of the sale will be sought to see if the democratic integrity of the Council has been compromised.

Your Officer's comments

The Council's ownership of the land has had no bearing on Officer's consideration of the scheme. The matter of the impact of the development on Burnt Wood ancient woodland has been considered fully in the agenda report.

The Secretary of State has received a request to 'call in' the application and therefore has requested that the Council does not issue a positive decision until the Secretary of State has had time to consider the application against the Government's call in criteria. For the avoidance of doubt the recommendation is amended to make reference to this.

The RECOMMENDATION is revised as follows:

Subject to the Secretary of State being advised that the Council is minded to approve the application and subject to the Secretary of State confirming that he does not wish to call in the application, PERMIT subject to conditions relating to the following:

- **Link to outline planning permission and conditions**
- **Approved plans**
- **Provision of access, parking and turning areas for each dwelling**
- **Retention of garages for parking**

- **Provision of cycle storage for dwellings with no garage**
- **Adoption plan**
- **Details of traffic calming measures on internal road layout**
- **Detailed tree protection plan**
- **Site specific Arboricultural Method Statement**
- **Landscaping scheme**
- **Details of paths, seating and planting within public open space**
- **Details of linkages from public open space to woodland**
- **Details of management of public open space**
- **Details of materials**
- **Drainage details**

**ST JOHN THE EVANGELIST R C SCHOOL, GLOUCESTER ROAD, KIDSGROVE
ENGIE**

19/00804/FUL

The application seeks full planning permission for a large extension to the existing school with associated new playground/net ball space, revised car parking provision and access arrangements, new fencing and landscaping. A new sports pitch is also proposed.

The existing school is split over two sites and the proposed development would allow the two sites to amalgamate onto the application site on Gloucester Road.

The application site is primarily located within the urban area but the proposed development encroaches onto land designated as Green Belt and an Area of Landscape Restoration, as indicated on the Local Development Framework Proposals Map.

The 8 week period for the determination of this application expired on the 11th December 2019 and the applicant has agreed various extension of time to the statutory determination period with the latest being to the 24th August 2020.

RECOMMENDATIONS

A. Subject to the receipt of no objections from the Highways Authority by the date of the Committee meeting and no new material objections being received from Kidsgrove Town Council, Sport England and neighbouring occupiers by the 31st August, then the Head of Planning be given the delegated authority to determine the application, and

B. Subject to the applicant first entering into a Section 106 obligation by the 1st September 2020 to secure a financial contribution of £5,000 for the preparation and monitoring of a Mode Shift Stars scheme to promote and encourage sustainable access to the school,

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

1. Standard time limits for the commencement of development;
2. Approved plans;
3. Sample facing materials;
4. Boundary treatments;
5. Hardsurfacing materials;
6. Implementation of soft landscaping scheme;
7. Updated tree survey and tree removal;
8. Community Use Agreement;
9. Assessment of plant noise;
10. Provision of a Kitchen Ventilation System and Odour Abatement;
11. Approval of external lighting;
12. Electric charging provision for onsite staff parking;
13. Highway & Environmental Construction and Demolition Management Plan (CMP)
14. Cycle parking provision
15. Implementation of off site highway works
16. Land contamination investigations and mitigation measures;
17. Intrusive coal mining site investigations and remedial works implementation;
18. Recommendations as per the submitted ecological report

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

Reason for Recommendation

Subject to no significant concerns being raised by the Highways Authority that cannot be overcome through the imposition of conditions and a S106 obligation to secure a travel plan, the proposed development is considered acceptable. The proposed development would not harm the openness of the Green Belt and the principle of the redevelopment of this school which is located in the urban area is acceptable. The design of the scheme, the impact on trees, playing field/ sports pitch provision, land stability, contamination and coal mining risk, are all considered acceptable, subject to conditions. On this basis 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

Detailed pre application advice was given and further opportunity was given to the applicant to address fundamental concerns with the proposals. Information has been submitted for consideration and approval.

Key Issues

This application is for full planning permission for a large extension to the existing school with associated new playground/netball space, revised car parking provision and access arrangements, new fencing and landscaping. A new sports pitch is also proposed.

Amended and additional information has been submitted during the planning application and the proposals now include significant off site highway works.

The existing school is split over two sites and the proposed development would allow the two sites to amalgamate onto the application site on Gloucester Road.

The application site is primarily located within the urban area but the proposed development encroaches onto land designated as Green Belt and an Area of Landscape Restoration, as indicated on the Local Development Framework Proposals Map.

The land is located within a High Risk Coal Mining area and the Coal Authority raises no objections subject to the imposition of conditions to secure intrusive site investigations and any appropriate remedial works.

The key issues in the determination of the development to consider are:

- Is the part of the development that is located within the Green Belt appropriate or inappropriate development?
- The principle of the development,
- The parking provision and the impact on highways safety,
- The design of the proposals and the impact on the visual amenity of the area,
- The impact on trees
- Impact on neighbouring residential amenity levels, and
- If inappropriate development, do the very special circumstances exist to overcome the harm to the Green Belt?

Is the development appropriate development in the Green Belt?

Paragraph 133 of the NPPF details that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

The proposal is for a large extension to the existing school which is primarily located within the urban area but the proposed development also encroaches onto land designated as Green Belt.

The proposals have been designed to ensure that the new buildings do not encroach onto land designated as Green Belt. However, the associated landscaping, hardsurface playing area provision and sports pitches would be located on land designated as Green Belt.

Paragraph 146 of the NPPF advises, amongst other things, that engineering operations are not inappropriate development within the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

The hardsurfaced areas are considered to represent engineering operations that would primarily preserve the openness of the Green Belt. They would also not conflict with the purposes of including land within the Green Belt.

Furthermore, it is acknowledged that the early years hard informal and social area to the side of the proposed extension includes a canopy but the harm is limited due to its small size.

It is considered that the proposed development would preserve the openness of the Green Belt and it does not conflict with the purposes of including land within it. On this basis the proposed development comprises appropriate development within the Green Belt and it accords with paragraph 146 of the NPPF. Therefore there is no requirement to demonstrate very special circumstances.

The principle of the development

The existing school is split over two sites and the proposed development would allow the two sites to amalgamate onto the application site on Gloucester Road.

The other site is located on The Avenue in Kidsgrove town centre and the application indicates that the building is in a poor structural condition and that the site is constrained by its size. Therefore, the logical conclusion was to combine the two sites on to the Gloucester Road site, thus creating a single campus primary school with 234 pupil capacity.

As discussed, the Gloucester Road site is primarily located within the urban area but the proposed development encroaches onto land designated as Green Belt.

The preference would have been for the two sites to be combined onto The Avenue site because of its highly sustainable location within the town centre with good links to public transport but it has to be accepted that the site is constrained and not capable of redevelopment.

The Gloucester Road site is constrained by the Green Belt and the proposed redevelopment seeks to ensure that the new buildings do not encroach into the Green Belt. However, this results in the proposed buildings being located on the existing school playground.

Sport England (SE), in their initial consultation response, indicated that the proposal will result in the loss of useable playing field land.

The NPPF emphasises the importance of high quality open spaces and opportunities for sport and physical activity as an important contributing factor to the health and well-being of communities. It further states in paragraph 97 that existing open space, sports and recreational buildings, including playing fields, should not be built on unless the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location.

The applicant subsequently submitted an amendment to the proposed playing field, along with a draft community use agreement (CUA, which will enable community access to the outdoor sports facilities and indoor changing/wc. This satisfied the concerns of SE, subject to a condition which secured a final CUA.

The scheme has now been amended further and a proposed car parking area which was previously proposed, and resulted in the loss of useable playing field, is no longer proposed. SE have been consulted on the amended scheme but it is likely that they will raise no objections because this element of the site now remains as existing. In all other respects the scheme remains as it did when SE previously commented on the development proposals.

In consideration of the above, it is accepted that the proposed development would not be contrary to paragraph 97 of the NPPF, subject to conditions.

Your officers support the principle of a single campus primary school on the site and the benefits that this would achieve, subject to other matters being considered acceptable.

The parking provision and the impact on highways safety

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

The NPPF states that in assessing specific applications for development, it should be ensured, amongst other things that;

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

As set out, the proposed development would result in the Gloucester Road site being a single campus primary school with 234 pupil capacity.

The Avenue site currently accommodates 89 pupils and the Gloucester Road site accommodates 110 pupils. Therefore, 199 pupils will be amalgamated onto the Gloucester Road site with a planned capacity of 234 pupils and 18 full time staff, should the redevelopment works be approved.

The preference would have been for the two sites to be combined onto The Avenue site because of its highly sustainable location but it has to be accepted that the site is constrained and not capable of redevelopment.

It is clear that the proposed development provides a number of benefits, as emphasised by the letters of support for the planning application. However, the proposed development should not be approved if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Your officers and the Highways Authority (HA) have continued to raise concerns about the impact of the amalgamation of the school onto the Gloucester Road site during detailed pre application discussions and throughout the planning application. HA have objected to the application on the grounds that the development fails to make adequate provision for the parking of vehicles during the morning drop-off and afternoon pick-up times for pupils, which will result in the exacerbation of on street parking issues and an increase in the likelihood of highway danger to all road users due to vehicles being parked and manoeuvring on the carriageway, footways and verges. These issues would result in an increase in highway danger for drivers and pedestrians.

This has resulted in amended plans and additional supporting technical highways information being submitted in an attempt to address the concerns, which now results in significant off site highway works being proposed on Gloucester Road. The works include, amongst other things;

- A new/ additional zebra crossing and upgrades to the existing zebra crossing,
- Upgraded and additional speed cushions and road markings,
- Remodelling of the existing access, and
- Existing grass verges made to half layby's for pull in's

The school also proposes staggered start and finish times for pupils depending on their age, which includes a breakfast club starting at 7.30am and an after school club that finishes at 5.45pm

A mode shift stars travel plan is also proposed which has an aim of encouraging travel by sustainable modes including walking, cycling and scooting in order to minimise private car use.

The views of HA have been sought and their comments are awaited but it is now clear that the off site highway works are significant and would ensure highway safety improvements. The implications of increased pupil numbers accessing the site in the peak drop off and pick up times remains a concern, particularly because the Gloucester Road site is a steep hill and the school catchment area makes it challenging for pupils and parents to use sustainable travel modes.

Electric vehicle charging is also required to make the development acceptable and 10% of staff spaces should be provided with fully operational dedicated electric vehicle charging point(s). An additional 10% of remaining parking spaces shall be provided with passive wiring to allow future charging point connection. This should also include disabled spaces.

Subject to HA raising no objections to the application with suitably worded conditions which mitigate against highway safety implications and the securing of a S106 obligation for a mode shift stars travel plan, your officers are satisfied that the proposed development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be so severe to justify a refusal.

The design of the proposals and the impact upon the Area of Landscape Restoration

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

Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape and landscape including its rural setting and the settlement pattern created by the hierarchy of centres. Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document provides further detailed guidance on design matters in tandem with CSP1.

The application site is located on Gloucester Road which rises steeply from west to east. The site has an existing single storey building and mobile building on the eastern edge of the site. The site also has associated playgrounds and playing fields to the side and front of the buildings.

The existing buildings have limited views from any main vantage points due to the single storey scale and the position on a significantly lower level than the road.

The proposed extension would be two storey in height and have a large footprint. It would sit next to and dominate the existing single storey buildings. However, due to the change in levels on the site the impact on the Gloucester Road street scene would be limited, albeit there would be some distance views of the side/ west elevation from further down Gloucester Road.

The proposed extension would have a functional design that has the appearance of a modern school building with a palette of different facing materials that would add interest to the buildings, which include facing red brick, render, a decorative grey brick, dark window frames and coloured feature panels.

There are some concerns with the mix of different facing materials, in particular the coloured feature panels, which create a cluttered appearance. However, it is not considered that an objection to the design of the proposed building on this basis can be raised and the proposed development, whilst large, represents an appropriate design that would not significantly harm the visual amenity of the area.

Soft landscaping has also been proposed to soften the appearance of frontage car parking and hardstandings within the site. These will ensure that the proposed development does not adversely harm the appearance of the street scene.

The off-site highway works will also result in the loss of grass verges many of these have been churned up from vehicles parking on them currently and no significant concerns are raised in this regard.

An objection has been received indicating that the proposed development will result in the loss of a view. This is not a material planning consideration and no weight can be given to the objection in the determination of the planning application.

On the basis of the above the design of the proposed development is considered acceptable and accords with policy CSP of the CSS, the guidance of the urban design SPD and the guidance and requirements of the NPPF.

The impact on trees

NLP Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. N12 also states that where, exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

The proposed change in ground levels to accommodate the size of sports pitch required is likely to result in tree loss on the northern boundary and the Councils Landscape Development Section (LDS) have raised concerns about the level of tree loss to this small wooded area.

Japanese Knotweed removal will also result in tree loss.

The application is supported by a tree survey which identifies that “the woodland area to the north of the site is very prominent in the landscape and provides shelter to the school site as well as habitat and connectivity for wildlife. As the trees here are mature and form an established landscape feature this area should be excluded from future development proposals.”

The removal of these trees will have a large impact on the existing landscape which is unfortunate but the removal of the additional frontage car parking is likely to result in no changes to the existing playing field and it is likely that additional tree loss can now be avoided. It is considered that any tree loss can be mitigated by replacement tree planting and on this basis the proposed development is in accordance with policy N12 of the local plan.

Impact on neighbouring residential amenity levels

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

The NPPF further states at paragraph 180 that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. The aim is to mitigate and reduce the potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

The existing school is split over two sites and the proposed development would allow the two sites to amalgamate onto the application site on Gloucester Road. This will increase pupil numbers to over 200 with a 234 capacity.

Noise, air, odour and light pollution will also be caused by the proposed development which includes a kitchen and plant and machinery. However, the application has satisfactorily addressed concerns

and the Environmental Health Division has raised no objections subject to conditions which will mitigate any impact on neighbouring residential amenity levels. On this basis the proposed development is likely to maintain existing amenity levels in accordance with the guidance and requirements of the NPPF which is considered acceptable.

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

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

Policy S3: Development in the Green Belt
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character - General Considerations
Policy N21: Area of Landscape Restoration
Policy T16: Development – General Parking Requirements
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

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

01/00645/FUL Erection of temporary classroom Permit
07/00168/FUL Single storey extension Permit
16/01032/FUL New classroom extension to replace existing mobile classroom Permit

Views of Consultees

Kidsgrove Town Council have not responded by the due date of the 6th November 2019 and it is assumed that they have no observations to make on the application.

Landscape Development Section raises concerns with the level of tree loss to accommodate the sports pitch to the north of the site which is very prominent in the landscape and is not only an important visual feature but provides shelter to the school and pitch area. The AIA shows more than a third of the trees growing on the embankment in this area will be lost. It is also unlikely that earthmoving to form the 1:2 slope would be possible in the restricted area that has been allowed. It would be better to relocate the parking area to enable retention of the embankment trees.

It is also considered that the proposed parking areas have a poor relationship with Gloucester Road. The sections of beech hedging shown on the frontage will help to screen the cars but the minimal planting is weak and does little to satisfactorily integrate the scheme.

Sport England raises no objections subject to a condition which secures a community use agreement to secure well managed safe community access to the sports facility/facilities and to

ensure sufficient benefit to the development of sport. However, they have not been consulted on the amended proposals which remove the additional car parking area adjacent to the playing field.

The **Environmental Health Division** raises no objections subject to conditions which secure the following matters;

- Construction environmental management plan;
- Assessment of plant noise;
- Provision of a Kitchen Ventilation System and Odour Abatement;
- Approval of external lighting; and
- Electric charging provision for onsite staff parking.

The **Highways Authority** have objected to the on the grounds that the development fails to make adequate provision for the parking of vehicles during the morning drop-off and afternoon pick-up times for pupils, which will result in the exacerbation of on street parking issues and an increase in the likelihood of highway danger to all road users due to vehicles being parked and manoeuvring on the carriageway, footways and verges. These issues would result in an increase in highway danger for drivers and pedestrians.

However, following the submission of amended plans and information which include significant off-site highway works, the indication is that the development will be acceptable subject to conditions which secure mitigation measures and a mode shift stars travel plan. Their formal consultation comments are awaited.

Following the submission of further coal mining risk information, the **Coal Authority** now remove their strong objections, subject to conditions which secure intrusive site investigations and a remediation scheme to be submitted for approval prior to any works commencing on site.

United Utilities raises no objections subject to conditions regarding surface water drainage scheme and foul and surface water being drained on separate systems.

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

Representations

Eighty Three representations have been received on the application, which include **Eighty One** letters of support. The letters of support highlight the benefits that the proposed development would bring to pupils, parents and staff who live in the local area, in particular highlighting the problems of a school spread over two sites and the challenges that this presents. .

A letter of support has also been received from **Jonathan Gullis, the Member of Parliament for Stoke-on-Trent North, Kidsgrove and Talke**, who emphasises the wide ranging benefits the scheme will bring and address a number of existing issues that the school has

The **Two** representations which raise concerns and objections highlight the following issues with the proposed development;

- Surface water flooding would increase;
- Loss of a view; and
- Unacceptable and dangerous parking problems would be increased.

Applicant's/Agent's submission

The application is accompanied by a Design and Access Statement, Transport and Highways Statement, Draft Community Use Agreement, Flood Risk Assessment, an Ecology Report, Air Quality Impact Assessment 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/19/00804/FUL>

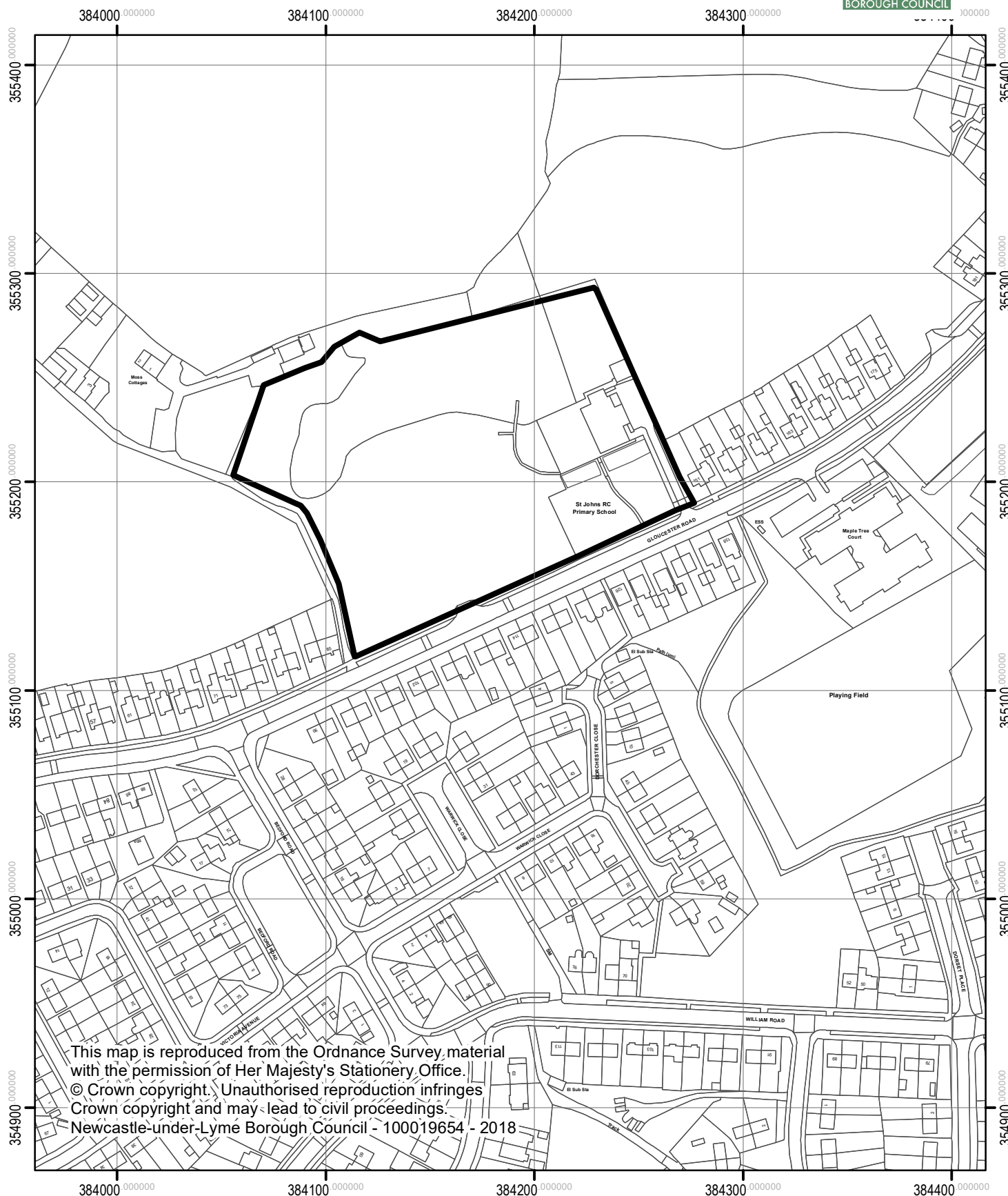
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

7th August 2020

St John The Evangelist R C School
Gloucester Road, Kidsgrove, ST7 1EH



This page is intentionally left blank

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
18th August 2020

Agenda Item 5

Application Ref. 19/00804/FUL

St. John the Evangelist School, Gloucester Road, Kidsgrove

Since the publication of the main agenda the further comments of the **Highways Authority (HA)** and **Sport England (SE)** have been received on the additional and revised information and plans submitted by the applicant.

HA have confirmed that they now raise no objections to the scheme subject to conditions.

They highlight that the proposed off site highway works will improve facilities for pedestrians to ensure children can access the site safely on foot and also include additional measures to reduce vehicle speeds to a more desirable level outside of a school. They also advise that the recently submitted Road Safety Audit (RSA) does not identify any fundamental issues with the proposed highway works other than minor details that could be resolved through the detailed design stage.

SE have advised that they wish to make no further comments from those previously submitted.

Officers Comments

Following confirmation that HA raises no objections, subject to conditions 13-15 set out in the main agenda, it is accepted that the proposed off site highway works would ensure significant highway safety improvements. A mode shift stars travel plan, to be secured by a S106 Obligation, would also contribute to ensuring that the development is acceptable. On this basis your officer is now satisfied that the proposed development would not result in an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be so severe to justify a refusal.

SE continue to raise no objections subject to a condition (8) which secures a community use agreement to secure well managed safe community access to the sports facility/facilities and to ensure sufficient benefit to the development of sport.

The RECOMMENDATION is revised as follows;

A. Subject to the receipt of no new material objections being received from Kidsgrove Town Council and neighbouring occupiers by the 31st August, then the Head of Planning be given the delegated authority to determine the application, and

B. Subject to the applicant first entering into a Section 106 obligation by the 1st September 2020 to secure a financial contribution of £5,000 for the preparation and monitoring of a Mode Shift Stars scheme to promote and encourage sustainable access to the school,

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

- 1. Standard time limits for the commencement of development;**
- 2. Approved plans;**
- 3. Sample facing materials;**
- 4. Boundary treatments;**

5. Hardsurfacing materials;
6. Implementation of soft landscaping scheme;
7. Updated tree survey and tree removal;
8. Community Use Agreement;
9. Assessment of plant noise;
10. Provision of a Kitchen Ventilation System and Odour Abatement;
11. Approval of external lighting;
12. Electric charging provision for onsite staff parking;
13. Highway & Environmental Construction and Demolition Management Plan (CMP)
14. Cycle parking provision
15. Implementation of off site highway works
16. Land contamination investigations and mitigation measures;
17. Intrusive coal mining site investigations and remedial works implementation;
18. Recommendations as per the submitted ecological report

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

LAND TO THE WEST OF NEWCASTLE ROAD (A53), BLACKBROOK
MR D AND T CLEE, J WILSON & M LEE

20/00368/FUL

The application seeks planning permission for the change of use of the land to a mixed use comprising the stabling/keeping of horses and as a residential caravan site for 4 gypsy pitches involving the erection of a stable building and 4 amenity buildings, and laying of hardstanding.

The change of use of the site to a residential caravan site has already taken place, the hardstanding has been laid out and the amenity buildings have been erected.

The site in question measures approximately 0.5 hectares. It was previously in use as a nursery.

The application site is located off Newcastle Road (A53) and is accessed via an existing field gate. The site is located in an area of Open Countryside and an Area of Landscape Enhancement as defined within the Local Development Framework Proposals Map.

The statutory 8 week determination period for this application expires on 17th July 2020.

RECOMMENDATIONS

(A) REFUSE for the following reasons;

- 1. The proposed development is in an unsuitable location within the open countryside away from services and facilities and without safe and convenient access to public transport and results in harm to the intrinsic character and beauty of the countryside due to the enclosure of the site affecting the character and openness of the landscape. Whilst the Local Planning Authority recognises that there is an unmet need for further gypsy and traveller pitches the benefits arising from the proposed development do not outweigh the identified harm. The proposed development would therefore be contrary to Policy CSP7 of the Core Strategy and national policy within the Planning Policy for Traveller Sites: policy DC2 of the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan; saved policy N20 of the Local Plan and the guidance of the National Planning Policy Framework.**
- 2. The applicant has failed to demonstrate that the existing access is suitable for the proposed development and that the visibility splays achievable from the site are appropriate for the speed of traffic and that the development will not, therefore, result in an adverse impact on highway safety. As such the proposal is contrary to Policy CSP7 of the Core Strategy and to the guidance of the National Planning Policy Framework.**
- 3. The site is located within Source Protection Zone 2 and very close to Source Protection Zone 1 of public water supply (PWS) boreholes, a critical ground water source supplying the region, and in the absence of a risk assessment that considers the impact of the development on the PWS and sets out mitigation measures as required, the applicant has failed to demonstrate that the proposed development will not have an adverse impact on the PWS. The development is therefore contrary to policy NE1 of the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan and the National Planning Policy Framework.**

B) The Head of Legal and Governance be authorised to issue enforcement and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 for the removal of all caravans/mobile homes, structures/buildings, the domestic paraphernalia and hardcore deposited on the land in association with its use as a residential caravan site and restoration to a grassed paddock within 12 months.

Reason for recommendation

The application site is not located in a sustainable location and results in visual harm to this open countryside location. The applicant has failed to demonstrate the proposed access would have suitable visibility splays, and that the proposed development will not have an adverse impact on a groundwater source. The provision of gypsy and traveller pitches is a clear benefit of the proposal. However, whilst the need for pitches and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm even when the personal need of the applicants' is taken into consideration.

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

Although the Council has sought to work with the applicants to address the reasons for the refusal of the previous scheme with the applicant, this has been in the context of the work being undertaken immediately following submission of the application and before any consideration of the scheme could take place. Accordingly, opportunities to make changes or suggest improvements to the scheme have been limited by the applicants own presumptive actions.

Despite this, the Council had undertaken work to try and address the outstanding issues but it is considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework or the Planning policy for traveller sites and it is considered that the applicant is unable to overcome the principal concerns in respect of the location of this development.

KEY ISSUES

1.1 The application is for full planning permission for the change of use of the site, which measures approximately 0.5 hectares and has been used to support a small scale nursery business, for a mixed use for the stabling/keeping of horses and as a residential caravan site for four gypsy families. Additionally the application seeks planning permission for associated development including hardstanding, package sewage treatment plant and four amenity buildings (measuring 4m by 6m, with a maximum height of 4.1m). A stable building is also proposed (measuring 11.65m by 4.1m with a maximum height of 4.5m).

1.2 The use of the site as a residential caravan site has commenced, and a hardstanding area has been created. Four wooden sheds have been placed on the site of smaller dimensions than the amenity buildings proposed. In addition there are currently four portable toilets on site connected to a septic tank, not proposed within the application.

1.3 The application site is located in the open countryside, and an Area of Landscape Enhancement as indicated on the Local Development Framework Proposals Map.

1.4 This application follows the refusal of an application, reference 19/00332/FUL, for the change of use of the land for the siting of caravans for residential purposes for four gypsy pitches with facilitating development (hard standing, package treatment plant, utility blocks). That application was refused for reasons relating to the following matters:

1. The site is in an unsustainable location within the open countryside away from services and facilities and without safe and convenient access to public transport.
2. Failure to demonstrate the suitability/safety of the site access in terms of visibility splays relative to the speed of traffic on the adjoining road and associated adverse impacts on highway safety.
3. Failure to demonstrate that residents would not be adversely impacted by noise emanating from the adjoining A53 and nearby pumping station.
4. Failure to demonstrate that the Site would not have an adverse impact on ground water supplies abstracted via the Wellings

1.5 In refusing application 19/00332/FUL for these reasons it was concluded that the impact of the proposal on protected species evident on the site could be appropriately mitigated through measures that can be secured by condition.

1.6 In consideration of the development proposed in application 19/00332/FUL it was noted that the clearance of the dilapidated building and glasshouse would offer some visual improvement to the site; however the introduction of mobile homes and touring caravans on four pitches as proposed, with the associated development including hardstanding for pitches and the access track would result in some visual harm to this relatively open rural area over and above that which presently exists on site. It was concluded that the proposal was in conflict with policies CSP7, saved NLP policy N20 and national policy in the PPTS and NPPF, particularly paragraph 170 of the Framework given that it damages the intrinsic character and beauty of the countryside. This harm was weighed in the planning balance but on balance did not result in a reason for refusal specifically about the unacceptable visual impact of the development.

1.7 Notably, since the determination of the previous application, the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan henceforth known as the Neighbourhood Development Plan has been Made since the previous decision. As a Made plan, this is considered to be a significant material planning consideration which was not in place at the time of the assessment of the last application. Policy DC2 of this plan indicates that a development proposal will be supported provided that it, amongst other things;

- Complements local landscape or townscape character in terms of urban and built form, spacing, enclosure and definition of streets and spaces;
- Maintains and enhances the character and appearance of the landscape or existing townscape.

1.8 Although the application is broadly similar to that previously addressed in 19/00332/FUL as noted above, there are a number of changes from the scheme refused last year. Notably, that proposal sought to use an open post and rail fence for the boundary detail whereas, the development as applied for and as built incorporates an acoustic fence around the site. Whilst it is proposed that the fence is landscaped, it is considered that this new feature has the effect of giving the impression that the site and its occupants are deliberately isolated from the rest of the community and also diminishes the openness of the area compared to the more open arrangement previously proposed.

1.9 Acknowledging that the impact on the landscape character was not a reason for refusal previously and there was a recognition that the development proposed in 2019 would be of a more open character than the one currently under consideration and would replace some former buildings on the site which mitigated some of the harm. By enclosing the site now, it is considered that the balance in terms of impact on the character of the area now weighs against the proposal and it can now be reasonably concluded that the proposal should be refused on the grounds of unacceptable visual impact

1.10 The proposed introduction of a stable building and the use of the remainder of the applicants' land as paddock is appropriate in this open countryside location and will not be visually harmful.

1.11 This report will now address whether the current application overcomes the reasons for refusal of application reference 19/00332/FUL.

2 Reason 1 - Suitability of the site for the proposed development

2.1 National planning policy regarding traveller site is set out in Planning Policy for Traveller Sites (PPTS) which should be read in conjunction with the National Planning Policy Framework.

2.2 The NPPF, at paragraph 78, advises that housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.

2.3 At paragraph 170 the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things;

- Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils.
- Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

- Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

2.4 In the PPTS, policy B, at paragraph 13, also states LPAs should ensure that traveller sites are sustainable economically, socially and environmentally, and that their planning policies should:

- Promote peaceful and integrated co-existence between the site and the local community;
- Promote, in collaboration with commissioners of health services, access to appropriate health services;
- Ensure that children can attend school on a regular basis;
- Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development;
- Avoid placing undue pressure on local infrastructure and services;
- Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;
- Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

2.5 Policy C (Sites in rural areas and the countryside) states that when assessing the suitability of sites in rural or semi-rural settings, LPAs should ensure that the scale of such sites does not dominate the nearest settled community.

2.6 Policy H (Determining planning applications for traveller sites), at paragraph 24, says that local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- the existing level of provision and need for sites;
- the availability (or lack) of alternative accommodation for the applicants;
- other personal circumstances of the applicant;
- that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites; and
- that they should determine applications for sites from any travellers and not just those with local connections.

2.7 Paragraph 25 (part of policy H) says that LPAs should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. LPAs should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

2.8 Paragraph 26 (part of policy H) requires LPAs to attach weight to the following matters:

- Effective use of previously developed (brownfield), untidy or derelict land;
- Sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;

- c) Promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and
- d) Not enclosing with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

2.9 Policy CSP7 of the Core Strategy states that pitches will be provided on sites that provide good access to shops, education, healthcare facilities and other essential services. Safe and convenient access should also be provided to public transport and the highway network.

2.10 Since the previous application was determined the emerging Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan (NDP) has been Made, as indicated above. The NDP does not make provision for the needs of gypsy/traveller households and as such does not contain any specific gypsy/traveller policy. Policy HG1, New Housing, indicates that new housing will be supported in sustainable locations within the village envelope of Baldwin's Gate; as part of conversions of non-designated heritage assets; and as replacement dwellings; limited infill housing or within a built frontage of existing dwellings. It indicates that to be in a sustainable location, development must:

- Be supported by adequate infrastructure, or provide any necessary infrastructure improvements as part of the development;
- Not encroach into the open countryside;
- Not involve the loss of best and most versatile agricultural land;
- Avoid encroaching onto or impacting on sensitive landscapes and habitats;
- Not involve the loss of any important community facility

2.11 The PPTS makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services, amongst other things by reference to the need to strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan.

2.12 Other factors such as economic and social factors are also important material considerations. Authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base, which is the applicants' intention for this site, ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampments. Furthermore, the application site is not located in an area at high risk of flooding.

2.13 The site is small in scale and does not dominate a settled community as required by paragraph 25 of the PPTS albeit it can be readily seen from the A53 heading north and some other locations as a notable feature within the landscape.

2.14 The application site is located in Blackbrook on Newcastle Road which is 3.7km from Baldwins Gate, the nearest established village with services and facilities service centre.

2.15 The nearest bus stop is on the A51 by the junction with the A53. To reach these, occupants of the site need to walk along the A53 and cross near its junction with the A51. There are no footpaths from the site to the bus stops on either side of the A53. Whilst this is not uncommon in a rural location, the grass banks to the side of the road are very narrow and on the north eastern side of the A53 i.e. the same side as the application site, the grass bank reduces from an average width of some 500 to 600 mm depending on the size of the adjacent hedge to nothing as the boundary of the cottage at the junction with the A51 immediately abuts the kerbing of the main road.

2.16 Were this to be the only section of limited width pathway, the occupiers could seek to cross the A53 before proceeding on to the A51 and the bus stops. This option though does not exist as there is no path on that side either with the hedge overhanging the verge leaving no space between it and the surface of the carriage way.

2.17 In the absence of footpaths on either side of the road, it is therefore a necessity that any pedestrians, including parents with children in buggies, will have to walk on the road surface if they do not travel by car. If this were a quiet B road with infrequent vehicles passing and the distance between safe refuges was sufficient to allow people to step off the road if a vehicle could be seen approaching, this may be acceptable but such opportunities are limited on this A road. As the junction is between two main A roads, there is a high level of traffic in the area day and night. There are some street lights at the junction but these do not extend far down the A53. Accordingly, access to the site in the winter months becomes even more challenging due to the combination of frequent vehicles including HGV's, poor, or no street lighting and narrow to no footpaths or refuges in which pedestrians can take shelter if needed.

2.18 Passing the site, the A53 is a national speed limit road and although the speed limit is 50mph near the junction the junction is difficult to cross for pedestrians in the absence of any crossing facilities. Accordingly, it cannot be said that access to public transport would be safe or convenient. As such it is considered fair to assume that all movements to and from the site would be by private vehicle. Whilst gypsies by definition have a travelling way of life, and this must be taken into consideration, this site provides no safe opportunities to travel on foot or by public transport which is a significant challenge especially to children who could be living on site who could not easily access public transport to get to school and would in all probability be reliant twice a day on the car to access education opportunities. This should be given weight in the determination of the application.

2.19 Given this assessment, it is considered that the proposal would be in conflict with Policy CSP7 of the Core Strategy the site doesn't provide good access to shops, education, healthcare facilities and other essential services and does not provide safe and convenient access to public transport.

3 Reason 2 - Highways

3.1 During the application process additional plans have been submitted showing visibility splays, in the northern direction towards the junction with the A51 and in the southern direction. The Highway Authority (HA) have considered such plans and have visited the site but maintain that a topographical survey is required detailing the access and the extent of the visibility splays to demonstrate that the visibility splays can be achieved within land in the applicants' control and the public highway.

3.2 In, addition the HA request details of the dimensions of the proposed access and provision of a swept path analysis for a vehicle and touring caravan entering and leaving the access. In the absence of such information it has not been demonstrated that the existing access is suitable and as such the second reason for refusal has not been addressed.

4 Reason 3 - Residential Amenity

4.1 The application is supported by a noise assessment and the Environmental Health Division, in consideration of this assessment, has concluded that noise can be dealt with appropriately. As such this reason for refusal has now been suitably addressed.

4.2 Concern has been raised within representations about external lighting and the harm that this has to the rural landscape and residential amenity. Whilst it is acknowledged that there is the potential for lighting to have an adverse impact on visual and residential amenity as recognised by the Environmental Health Division, it could be controlled through suitably worded conditions and as such does not constitute a reason for refusal.

5 Reason 4 - Impact of the proposal on groundwater supplies

5.1 Severn Trent Water (STW) again highlights the potential that development on this site has to compromise their ability to provide sustainable sources of groundwater given the proximity of the site to defined Source Protection Zone (SPZ) 1 of the public water supply (PWS) the Wellings, and its location within SPZ 2. They advise that any development of the site should therefore be subject to a high standard of groundwater protection given the criticality of this groundwater source that provides a strategic water supply to the regional area.

5.2 A risk assessment has not been provided in support of the current application in response to this reason for refusal and therefore the applicant has again not demonstrated what risks the development poses to this groundwater source and what mitigation is necessary to minimise the impact of the development to an acceptable level. STW's position is that the environmental risk assessment, which should consider Groundwater Directive standards and Drinking Water standards, is required prior to development taking place and that conditions should be imposed on any permission requiring adequate mitigation and control measures identified in the assessment to be adhered to.

5.3 As indicated above development of this site has already taken place and as such it is no longer possible for a risk assessment and mitigation to be undertaken in advance of development commencing. However, given STW indicate that they are confident such measures would support the sustainable protection of groundwater, it is apparent that conditions could be imposed if planning permission was to be granted requiring mitigation to be agreed and implemented. Notwithstanding this, if permission was to be refused for other reasons it is still considered that it would be appropriate to retain this reason for refusal in recognition of the importance of this groundwater source as a PWS and to protect the LPA's ability to justify the imposition of such conditions should planning permission be granted following appeal.

6 Other Considerations

Need for and supply of gypsy sites and alternative sites

6.1 Policy B of the PPTS (Planning Policy for Traveller Sites), at paragraph 10(a), says that local planning authorities (LPAs), in producing their Local Plan, should identify and update annually, a supply of deliverable sites sufficient to provide five years' worth of sites for gypsies, travellers and travelling showpeople against their locally set targets, and identify a supply of specific, developable sites or broad locations for growth for years six to ten and, where possible, for years 11-15.

6.2 The Borough Council and Stoke-on-Trent City Council, together with Stafford Borough Council and Staffordshire Moorlands District Council, commissioned a Joint Gypsy and Traveller and Travelling Showperson Accommodation Assessment in 2015 (GTTSSA). The Assessment provides updated evidence to identify the future accommodation needs of gypsies and travellers and travelling showpersons across the four local authority areas. For Newcastle-under-Lyme, the study identifies a shortfall of one pitch between 2014 and 2019. A further six pitches are required between 2019 and 2034, bringing the total requirement to seven permanent pitches. In addition to the provision of permanent pitches, the study identifies the requirement for five transit pitches across Newcastle-under-Lyme between 2015/16 and 2018/19.

6.3 It should be noted that a review of the GTTSSA is being undertaken to ensure that the evidence base for the Joint Local Plan is sound and robust. Whilst draft documents have been received for the study, these are still under consideration and are considered to carry negligible weight in the decision making process. It is possible that the unmet need for Newcastle may change from that set out in the 2016 document. A Housing Need Assessment prepared as evidence for the NDP (made earlier this year) identifies housing need for the neighbourhood plan area but does not identify need for gypsy/traveller pitches however. If the GTTSSA does become adopted in the future, that will become a material consideration for any future applications in the plan area and may be relevant to this site or any other that may be brought forward in the intervening period.

6.4 As no sites have, as yet, been identified or allocated to meet the identified need across the Borough it remains that the Council does not have a five year supply however as there no need was identified in the neighbourhood plan area it is considered that this only adds limited weight in favour of the development. No alternative sites have been identified and this adds weight in favour of the development.

The accommodation needs of the applicants and personal circumstances

6.5 As set out above the PPTS aims to enable the provision of suitable accommodation from which travellers can access education, health, welfare and employment infrastructure. Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned.

6.6 The submission indicates that there are 11 children within the applicants' families one of which is physically disabled, and another being treated for leukaemia. The submission further indicates that the provision of a settled site in this area would clearly be of immense benefit to the extended family in helping to reunite the family, provide a stable home environment, access to adequate health care and, regular schooling for the children.

6.7 It is accepted that having a settled base at the site would result in benefits to the applicants' and their families. The information provided does not, however, suggest, that the best interests of the children could only be met on this site and as such it is considered that these factors only add a modest amount of weight in favour of the proposal.

7. Conclusions

7.1 Having regard to the rural location of the site within the open countryside, the distance from facilities, and the absence of safe and convenient access to public transport, the site is not considered to be in a sustainable or suitable location for the development. This would have some adverse implications in terms of use of natural resources and movement towards a low carbon economy.

7.2 Insufficient information has been submitted relating to the visibility of the existing access to the site. There will also be an adverse impact upon the character and appearance of this rural area arising from the visual impact of the proposal.

7.3 The provision of gypsy and traveller pitches is a clear benefit of the proposal. However, whilst the requirement for sites and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm even when the personal need of the applicants for a residential site is taken into consideration.

7.4 Weighing the harm against the matters in favour of the proposal and the potential imposition of conditions it is concluded that the development would not be acceptable even for a temporary period because of the ongoing risk to protected ground water supplies and the poor access to public transport on the A51. The proposal is therefore considered to be contrary to Policy CSP7 of the Core Strategy, Policy H of the Planning Policy for Traveller Sites, and the NPPF particularly paragraphs 78 and 170.

7.5 In reaching these conclusions regard has been had to Article 8 of the Human Rights Act 1998 however the applicants' individual rights for respect for his private and family life (along with the best interests of the children), must be weighed against other factors including wider public interest. Consideration.

8. Expediency of taking enforcement action

8.1 The development has been partially completed and given the conclusions of this report, it is necessary to consider the expediency of taking enforcement action against the breach of planning control.

8.2 An injunction has already been served on the site that prevents any intensification of the development on the site.

8.3 As indicated above the application site is not located in a sustainable location and results in visual harm to this open countryside location. In addition it has not been demonstrated that a safe access can be provided and that risk to the public water source can be suitably mitigated. Whilst the provision of gypsy and traveller pitches is a clear benefit of the proposal and the need for pitches and the current lack of alternatives weigh in favour of the proposal, they are not considered to outweigh the identified harm even when the personal need of the applicants' is taken into consideration. Such matters justify the taking of enforcement action.

8.4 In terms of the action required it is considered that all caravans/mobile homes, structures/buildings, the domestic paraphernalia and hardcore deposited on the land in association

with its use as a residential caravan site shall be removed and the land restored to a grassed paddock.

8.5 As four families are currently living on the site who will have to find an alternative site sufficient to accommodate them it is considered that 12 months is a reasonable period for compliance with the notice

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 Strategy
Policy CSP1: Design Quality
Policy CSP7: Gypsy and Travellers

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

Policy H1: Residential development: sustainable location and protection of the countryside
Policy N2: Development and nature conservation - site surveys
Policy N3: Development and nature conservation – protection and enhancement measures.
Policy N20: Areas of Landscape Enhancement

[Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan \(NDP\) October 2019](#)

Policy NE1: Natural Environment
Policy NE2: Sustainable Drainage
Policy DC2: Sustainable Design
Policy DC5: Impact of Lighting
Policy HG1: New Housing

Other material considerations include:

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

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

[Planning Policy for Traveller Sites \(August 2015\)](#)

[Newcastle-under-Lyme, Stoke-on-Trent, Staffordshire Moorlands and Stafford Gypsy and Traveller and Travelling Showperson Accommodation Assessment 2015](#)

Human Rights Act 1998

Relevant Planning History

N20697 - The erection of a wholesale nursery including the erection of polythene tunnel and implement shed, plus improving access to A53 and construction of hardstanding. PERMITTED 1991

18/00491/FUL - Change of use of the land for the siting of caravans for residential purposes for 4 no. gypsy pitches. WITHDRAWN

19/00332/FUL - Change of use of the land for the siting of a caravans for residential purposes for 4 no. gypsy pitches with facilitating development (Hard standing, package treatment plant, utility blocks). REFUSED

Views of Consultees

Maer and Aston Parish Council recommend that the application should be refused on the following grounds:

- The development would be inappropriate development in the open countryside by virtue of the change of use from agricultural to traveller site. The proposed change of use is not compatible with uses considered appropriate in the area of landscape restoration;

- The development proposal is contrary to policies DC2, DC5, HG1, NE1 and NE2 in the NDP for the reasons that are set out in detail;
- The development has been undertaken unlawfully;

They request that following refusal enforcement action should be taken to address the unlawful development and the harm caused to the natural environment. In addition they state that at the present time HS2 is still in the planning stage and has not been fully approved, however once construction starts there will be a large increase in the volume of traffic over the next few years most of which will be HGVs (approximately an additional 1000 HGV vehicles per day), exacerbating an already difficult situation and encourage increase speed at the access point.

The applicant's family statement also mentions 'doubling up' as a standard practice however this suggests that there would be many more people on the site. Councillors would also like to point out there is already a caravan site just a couple of miles from the proposed site at Stableford.

Finally the request that the Planning Committee visit the site.

Whitmore Parish Council object to the application in the strongest possible terms, for the following reasons:

- As with the previous applications this is an unsuitable location, unsustainable and contrary to the guidance in the NPPF and policies of the NDP.
- The site has already been occupied in breach of planning control.
- No mention is made of the NDP in the submission.
- The development proposal is contrary to policies HG1, NE1, NE2, DC2, and DC5, in the NDP for the reasons that are set out in detail;
- They have approached the application as it would for any proposed development in the NDP area

Loggerheads Parish Council objects to the application for the following reasons:

- The site is not in a sustainable location and does not comply with CSS policy CSP7.
- The access onto the A53 is at a dangerous point.
- PPTS paragraph 28b allows for visiting caravans on gypsy or traveller sites, but no space is identified for such purposes. If planning permission is permitted a condition should be imposed specifying the maximum permitted number of visiting caravans at any one time.
- The form indicates vehicle parking is proposed for four light goods vehicles/public carrier vehicles which raises the question of possible non-residential uses/activities on the site resulting in nuisance. A condition should be imposed restricting the use of the site for residential purposes only.

The **Highway Authority**, having reviewed additional information received during the application process, recommend refusal as the submission does not demonstrate that the visibility splays can be achieved within land in the applicants' control and the public highway or that a vehicle and touring caravan can enter and egress the site.

The **Environmental Health Division** note that the application is supported by a noise assessment which considers the effects of noise on residential and touring caravans. Acoustic treatment of part of the site boundary has been identified and a specification for fencing has been given. It is understood that the fencing is now in place and meets with the recommendation of the acoustic report. Subject to the acoustic treatment remaining in place noise can be dealt with appropriately. There are no objections subject to conditions relating to the following matters:

- Implementation of the recommendations of the acoustic assessment.
- Prior approval of external lighting.
- Prior approval of the means of storing and disposing of stable waste.
- No commercial use of the stables.

Additional comments are as follows:

- No particular concerns from potential land contamination.
- A Caravan Site License will still need to be applied for in order to operate and run the site if planning permission is given.

The Waste Water section of **Severn Trent Water (STW)** has no objections. In respect of the potential impact upon providing sustainable sources of groundwater they highlight the potential of this development to compromise this. They advise that the proposed development falls within the Environment Agency defined Source Protection Zone (SPZ) 1 and very close to the SPZ 1 boundary of the public water source (PWS) boreholes. Any development of land within an SPZ 1 and certain activities within an SPZ 2 should be subject to a high standard of groundwater protection. In documents attached to the application the PWS boreholes are not mentioned. It is necessary to emphasise the criticality of this groundwater source that provides a strategic water supply to the regional area; therefore it should be treated with due and rightful care.

The potential impacts on groundwater quality both throughout and following completion of the development works require immediate consideration. It is not understood whether the initial designs of these developments have incorporated mitigation measures or if best management practices are to be followed.

Any form of contamination generated on the surface has a high potential to leach into the aquifer and be drawn towards the abstraction source reasonably quickly. This is exacerbated by the fact that the ground water levels are very shallow in this area and therefore any buffering effect of contaminants is significantly diminished due to the lack of an unsaturated zone.

Furthermore four observation boreholes have been installed for monitoring purposes which fully penetrate the aquifer and therefore act as direct conduits to the groundwater system and must be taken into account in the risk assessment.

The concerns that were expressed regarding the previous applications remain relevant:

- There is no risk assessment that takes into account the Severn Trent public supply. Protection of groundwater quality should be taken into account for the design to ensure no impact;
- Lack of detail relating to the functionality of the package treatment plant, intended for the disposal of foul sewage;
- Lack of detail relating to wastewater management plans of the development site;
- Lack of detail relating to the surface water management plan and the intended disposal of surface water to the nearby existing watercourse; and

Given the strategically important and highly vulnerable nature of the PWS site, Severn Trent expects the completion of an environmental risk assessment that fully considers the potential impacts to the groundwater source and appropriately addresses the concerns outlined in this document.

Furthermore, STW considers it necessary to request that conditions are attached to the planning consent to ensure adequate mitigation and control measures are adhered to with regards to all developments referred to in this document. STW is confident such measures will support the sustainable protection of groundwater, however, without these conditions Severn Trent wishes to raise its concerns regarding the soundness of the proposed planning application.

Cadent states that there is apparatus in the vicinity which may be affected so developers are required to contact their Plant protection Team for approval before carrying out any works on site.

Environment Agency has no objection subject to a condition requiring a scheme for the disposal of foul drainage to be submitted to, approved and implemented before the development commences.

Landscape Development Section indicates that the tree report does not relate to the current proposals and an updated Arboricultural Impact Assessment is therefore requested which should

address remedial works necessary to mitigate damage trees, effects of the proposals on existing trees and tree protection measures. Of particular concern is the oak tree on the site. In addition insufficient detail has been submitted with regard to proposed planting and permission should be subject to the submission of a detailed landscaping scheme. This should incorporate existing planting and include tree, shrub and hedge planting to provide screening to the development and to integrate the proposals with the surrounding countryside.

The Lead Local Flood Authority, a non-statutory consultee, state that according to their information, the Environment Agency's Updated Flood Map for Surface Water 1 in 100 Surface Water Flood Zone indicates that there may be potential for some minor surface water ponding within the site. They request that the development should be guided by the attached standing advice.

The views of **Housing Strategy** and **Planning Policy** have been sought but have not responded by the due date and as such it is assumed that they have no comments.

Representations

233 representations, objecting to the application have been received (those received up to and including 16 July) including from Cllr Hutton and from the Steering Group for the Chapel and Hill Chorlton, Maer and Aston, and Whitmore Neighbourhood Plan. The concerns raised are summarised below

- The application largely remains the same as that refused in 2019.
- The proposal should be considered on the basis of it being for residential development. This is an inappropriate and unsustainable site for residential development in the open countryside, outside the urban area and village envelopes, with no safe walking route to the nearest bus stop and the nearest facilities being in Baldwins Gate or Loggerheads, over 2 and 3 miles distance. The proposal is therefore contrary to NLP policy H1 and NDP policy HG1, and the NPPF.
- The Gypsy and Traveller Accommodation Assessment does not identify a need for such provision in the locality. Whilst it recognises that there is an identified and unmet need for gypsy and traveller pitches the benefits of the development do not outweigh the identified harm contrary to CSS policy CSP7.
- The Housing Need Assessment supporting the NDP does not identify any requirement for pitches within the area
- Unacceptable visual harm to the character of the landscape contrary to NLP policy N17 and N20, and NDP policy NE1 and DC2.
- Highway safety issues including the particularly hazardous A51 and A53 junction resulting in standing traffic on one side and fast moving traffic on the other. Turning right towards Loggerheads would be dangerous.
- Since permission was granted in 1991 to widen the entrance to allow goods vehicle access there has been an increase in traffic, including lorries, going to and from the Mueller Dairies.
- The submission suggests that there will be a significantly larger number of residents than in the previously rejected application and emphasis is placed on the fact that travellers often 'double up' in the winter time suggesting an increase in caravans and occupants.
- It would appear that the applicants wish to undertake a significant amount of business activity within the site.
- The submitted noise assessment is invalid because the background noise levels are considerably reduced due to the coronavirus pandemic impacting on traffic levels.
- The children on site are exposed to toxic fumes daily.
- The recycled crushed demolition waste brought to site for hardcore has the potential to contaminate the land.
- External lighting would be intrusive in the open countryside contrary to NDP policy DC5.
- The proposal is contrary to CSS policy CSP7 as there is no safe and convenient access to public transport and the highway network. The Council could better comply

with its obligation and comply with CSP7 by providing a facility on the edge of the main built-up area.

- The development is contrary to DCLGs Designing Gypsy and Traveller Sites Good Practice Guide as consideration has not been given to the relationship of the site with the surrounding community; the development is visually not in keeping
- There are no mains sewage facilities contrary to NDP policy NE2 and no details is provided as to how foul sewerage will be dealt with that demonstrates that any environmental risks are addressed.
- The site is prone to flooding.
- The site is over the area's principle aquifer and near to a borehole which could be adversely affected contrary to NDP policy NE1 and NE2.
- The site is no big enough to sustain horses.
- Contamination from the site from surface water could seriously damage the delicate ecosystem around the River Tern.
- The supporting ecology report recommends that a fingertip search is carried out by ecologists on the morning prior to any work commencing on site. This recommendation does not appear to have been implemented.
- The adjacent field is frequently flooded due to the high water table and it is likely that the septic tank drainage would not soak away, flood and create a high pollution.
- The previous objections should be taken into account.
- The applicants have already moved onto the site and this should be addressed. Granting retrospective permission would set a precedent for other unauthorised development.
-

Five representations have been received in support of the application raising the following points:

- One of the families on site is well respected in the travelling community and in the settled community in the area.
- The families just want to live peacefully within our society, no different to other families.
- The best interests of the child must be top priority in all decisions and actions that affect children.
- There are currently no traveller's pitches available resulting in marginalisation of gypsies who are already subject to discrimination, prejudice and neglect.
- If removed from the site they will move to an unauthorised site.
- The development will have no greater impact on the A51 and A53 junction than the existing housing does.
- The location is convenient for the number 64 bus route and presumably school bus routes.
- The caravans and static units are behind a fence and not very visible from the road. The horses grazing are entirely appropriate for a rural location.
- This is a safer environment on public health grounds given Covid-19.

Applicant/agent's submission

The application is supported by:

- Speed survey data
- Design and Access
- Preliminary Ecological Appraisal
- Noise Assessment
- Arboricultural survey, impact assessment and method statement.

All of the application documents can be viewed using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00368/FUL>

Background Papers

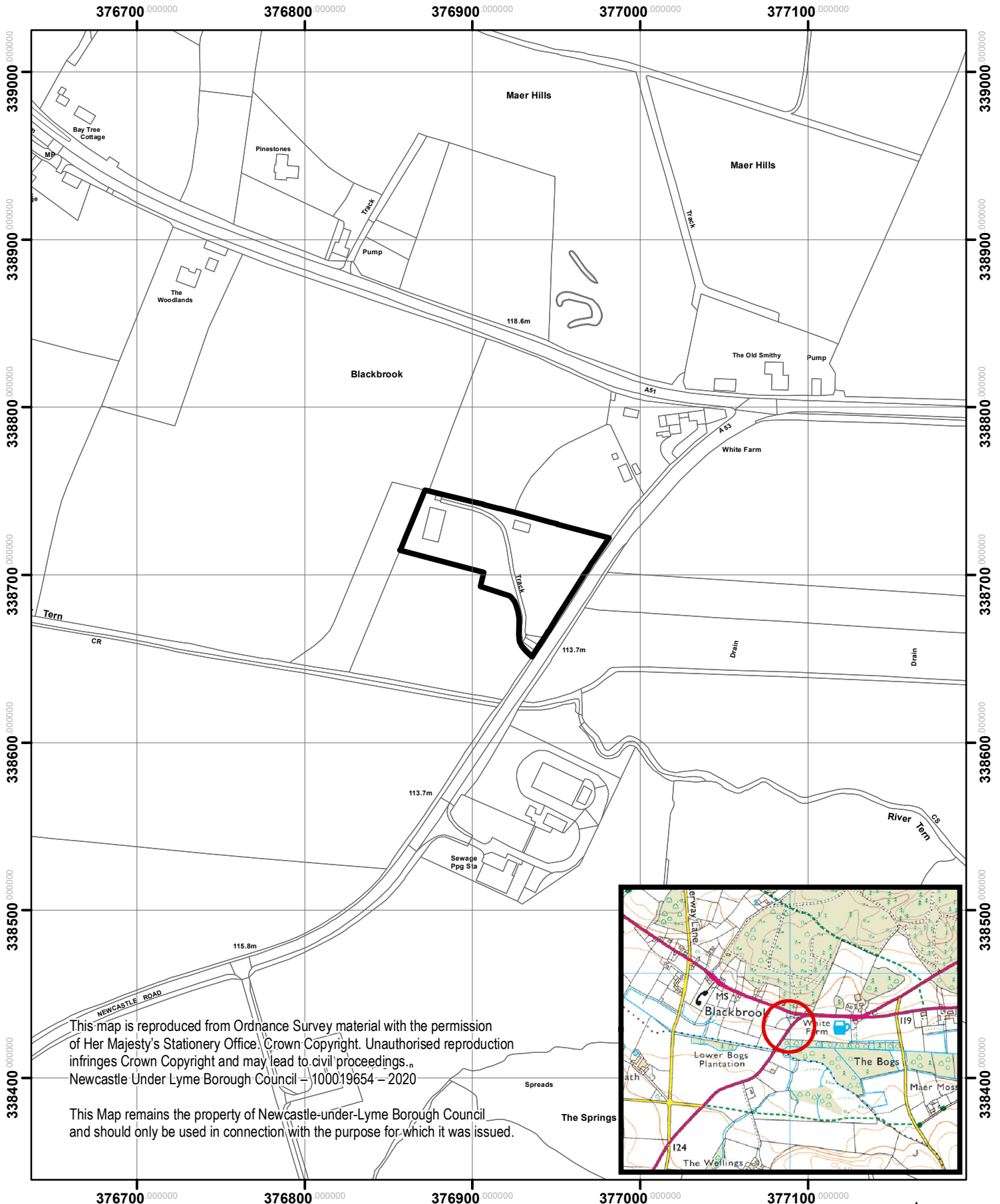
Planning File
Development Plan

Date report prepared

22nd July 2020

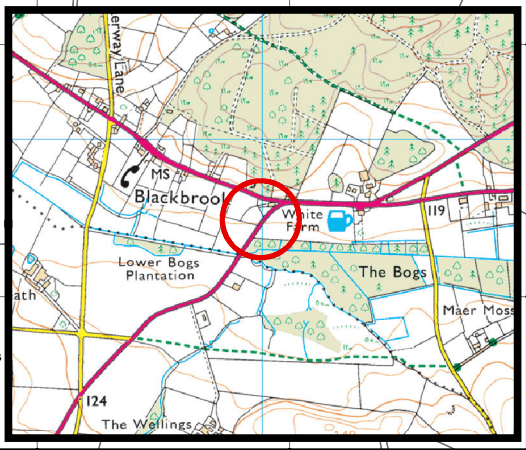
This page is intentionally left blank

Site off Newcastle Road, Baldwins Gate



This map is reproduced from 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 – 1000.19654 – 2020

This Map remains the property of Newcastle-under-Lyme Borough Council and should only be used in connection with the purpose for which it was issued.



This page is intentionally left blank

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
18TH AUGUST 2020

Agenda Item 6

Application Ref. 20/00368/FUL

Land to the West of Newcastle Road (A53), Blackbrook

Since the preparation of the main agenda two further representations have been received objecting to the proposed development on grounds already reported.

The RECOMMENDATION remains as set out in the main agenda.

This page is intentionally left blank

LAND NORTH OF PEPPER STREET, KEELE
KEELE HOMES LIMITED

20/00431/DOB

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

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

The 8 week determination period for this application expires on 20th August 2020.

RECOMMENDATION

That the application to modify the S106 agreement, by extending the period of time within which the developer must substantially commence development before the need for a revised viability report is triggered to 25 September 2021, be approved.

Reason for Recommendation

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

Key Issues

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

The modification sought is to paragraph 2 of Schedule 6 of the Agreement as amended by the DoV to provide an additional 12 months for the development to be substantially commenced, at which point the developer is required to prepare and submit a revised viability report if this trigger is not reached. This would extend the period of time to 25 September 2021.

This application is made in response to the impact that Covid-19 has had on construction. Such impacts are acknowledged. It is also recognised that the Government, in the wider interests of the economic recovery of the country, is encouraging Local Planning Authorities to be flexible and work with the construction industry to ensure development can still take place.

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

APPENDIX

Other Material Considerations

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

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

[Supplementary Planning Documents/Guidance](#)

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

[Views of Consultees](#)

Keele Parish Council resolved not to object.

[Representations](#)

None

[Applicant/agent's submission](#)

The application documents are available for inspection via the following link
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00431/DOB>

Background Papers

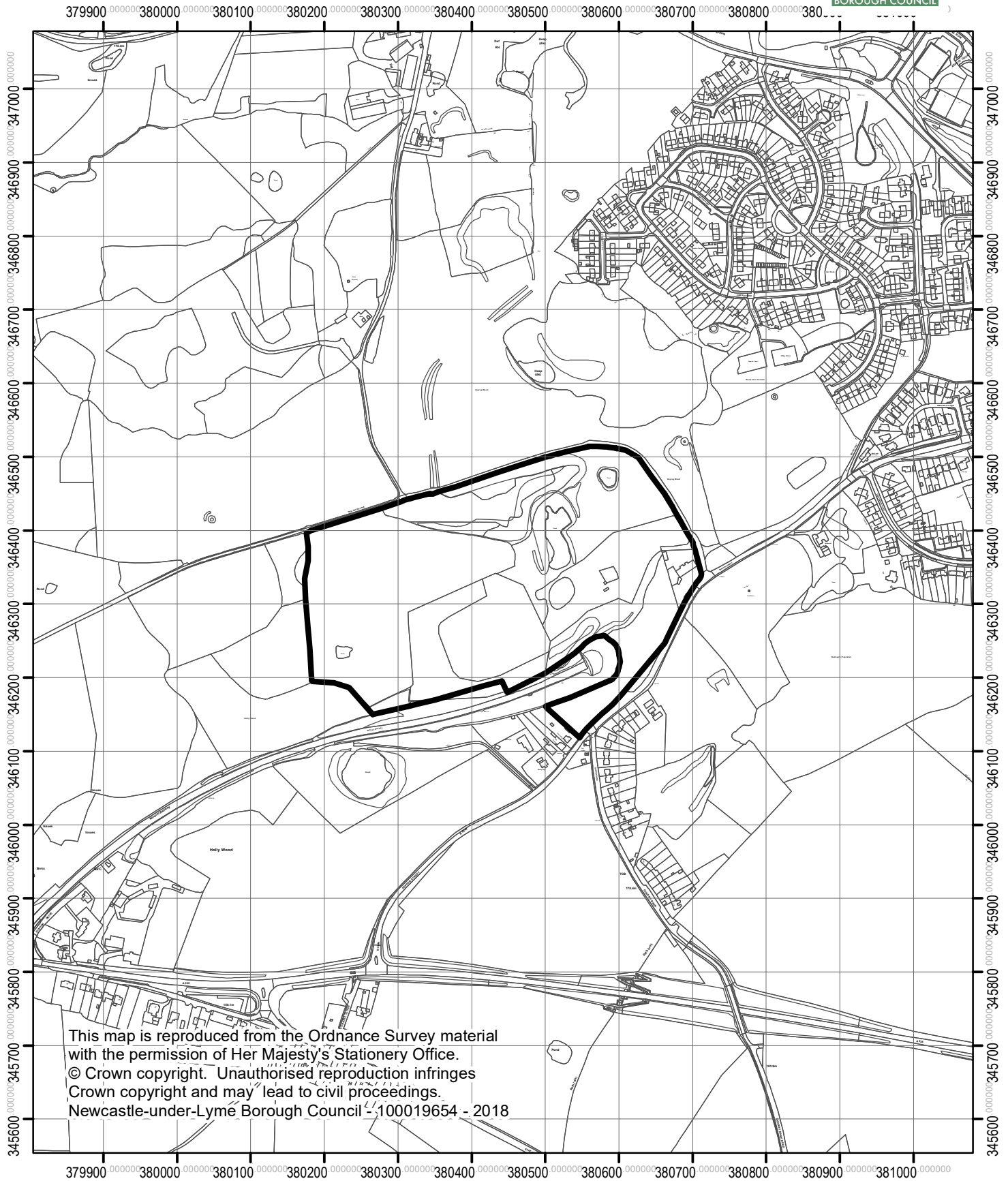
Planning File.

Planning Documents referred to.

Date Report Prepared

30th July 2020

Land North of Pepper Street Keele



This page is intentionally left blank

**FOOTPATH OFF HIGH STREET B5367, HIGH STREET, KNUTTON
EE LIMITED**

20/00496/TDET

The proposal is for the installation of a new 17.5 metre high monopole and 4 ancillary equipment cabinets on the footpath off High Street, Knutton, to the front of Knutton Community Centre. The application has been submitted as a result of the proposed removal of the existing EE 16 metre high column at Knutton Recreation Centre.

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

Unless a decision on this application is communicated to the developer by the 23rd August 2020 the development will be able to proceed as proposed.

RECOMMENDATIONS

(a) That prior approval is required, and

(b) That such prior approval is GRANTED

Reason for Recommendation

Given the height of the proposal, and its location in a clearly visible area within the street scene, prior approval is required. The proposed monopole would be sited adjacent to several mature trees and street lighting columns and it is not considered that the proposal would result in a significant adverse impact on the visual amenity of the area. In the absence of any significant visual harm and also taking into account the weight given to proposals relating to the maintenance of the telecommunications network, prior approval should be granted.

KEY ISSUES

The proposal is for the installation of a new 17.5 metre high monopole with 4 equipment cabinets at the base, on the footpath off High Street, Knutton, to the front of Knutton Community Centre.

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

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

Is prior approval required?

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

The proposal comprises a new monopole and ancillary equipment cabinets that would be clearly visible within the street scene. It is considered that prior approval is therefore required.

Should prior approval be granted?

Paragraph 112 of the NPPF states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

Paragraph 113 states that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient

operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.

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

The proposal is for a 17.5m high monopole with four cabinets. The new monopole is a replacement of the existing EE 16 metre column at Knutton Recreation Centre following the Landowner serving a Notice to Quit on EE to redevelop the land. The proposed new mast will include provision for 3G/4G and newly developed 5G data use and will ensure that the network coverage for this area is maintained. The applicant states that EE have been awarded the contract to provide network services to the Emergency Services, which will operate over EE's 3G/4G/5G network and as such, this site will also provide coverage for all the blue light services in this area.

The proposed monopole would be sited adjacent to several mature trees and street lighting columns and although it would be taller than the existing structures, given its siting directly next to a roundabout within the urban area, it is considered to represent an appropriate location for the equipment. Views from the wider area would not be significant or harmful.

In conclusion, it is considered that the siting and design of the proposed monopole and associated equipment is acceptable and that the proposal would meet the guidance and 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 CSP1: Design Quality

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

Policy T19: Telecommunications Development – General Concerns

Policy T20: Telecommunications Development – Required Information

Other Material Considerations include:

[National Planning Policy](#)

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

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

[Supplementary Planning Guidance/Documents](#)

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

Relevant Planning History

None

Views of Consultees

No comments have been received from the **Highway Authority** by the due date 28th July and therefore it must be assumed that they have no comments to make.

Representations

None received.

Applicant/agent's submission

The applicant has submitted a Design, Access and Supporting Statement.

The applicant has declared that the proposal conforms to International Commission on Non-Ionising Radiation Protection (ICNIRP) Public Exposure Guidelines.

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/20/00462/TDET>

Background Papers

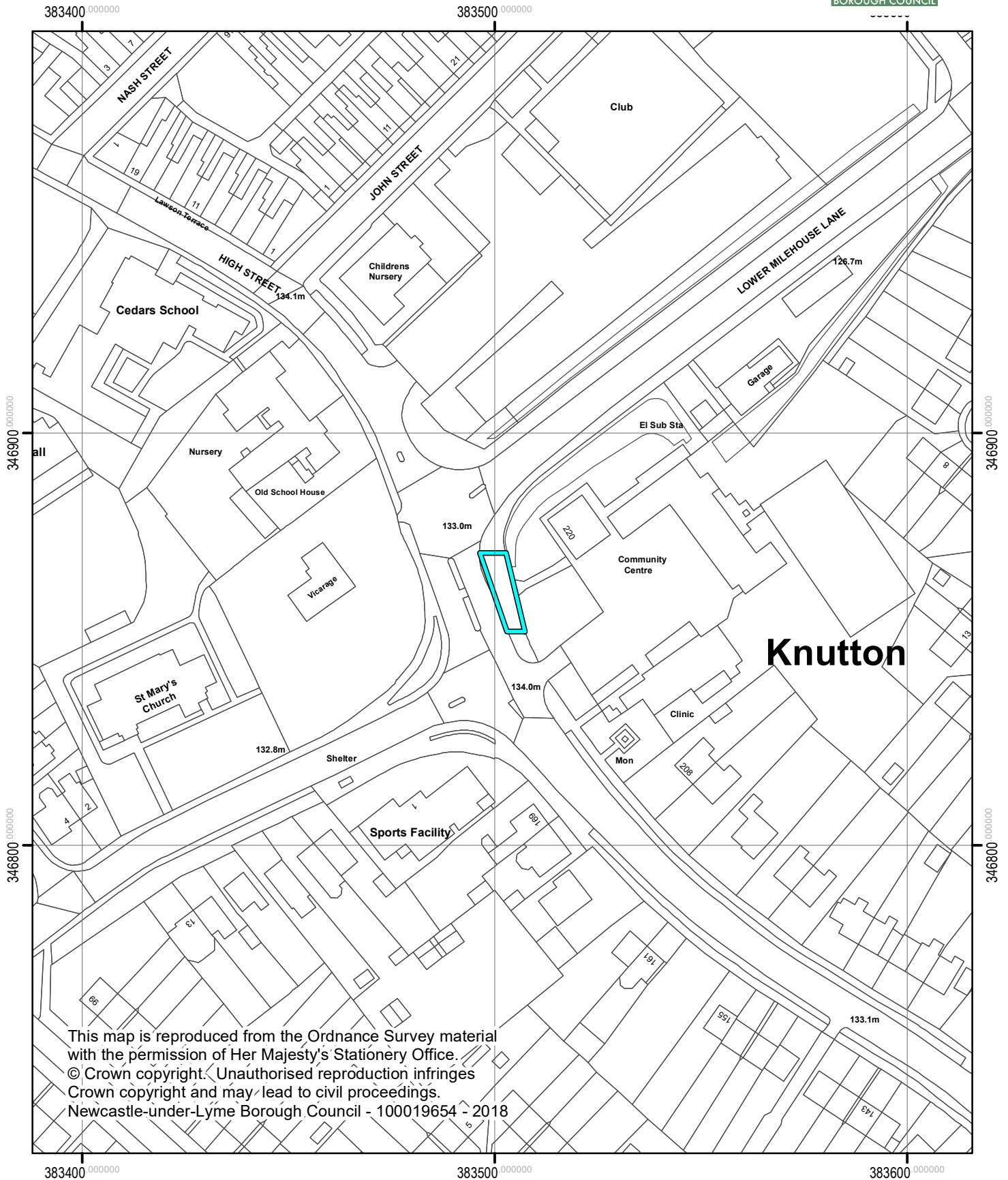
Planning File referred to
Planning Documents referred to

Date report prepared

3rd August 2020

This page is intentionally left blank

Footpath Off High Street B5367
High Street, Knutton, ST5 6EP



This page is intentionally left blank

FIRST SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
18th August 2020

Agenda Item 8

Application Ref. 20/00496/TDET

Footpath off High Street B5367, Knutton

Since the publication of the main agenda report correspondence has been received from the applicant expressing concerns regarding the content of the report, in particular the 'Reason for Recommendation' section of the report.

A summary of their comments is as follows:

- The reason as to why prior approval is required is not factually correct and provides no background or setting in relation to the General Permitted Development Order which sets out the criteria and procedures for determining the type of application submitted, as well as what matters can be considered in assessing the proposal.
- The principle of the proposal in this instance is not in question. The reason that prior approval is required is not due to the height of the mast nor that its location is clearly visible within the street scene and this statement is very misleading.
- It is requested that the 'Reason for Recommendation' is amended or that the presenting officer better informs the committee as to why this prior approval application is before them as opposed to full planning; that the principle of the proposal is not in question as the proposal benefits from the Government's national granting of planning permission for this type of development; the limitations of this national granting of planning permission in order to provide context; and exactly what matters are for consideration in this instance (siting and appearance only).

Officers Comments

Prior approval is only required where local planning authorities judge that a specific proposal is likely to have a significant impact on its surroundings and therefore the agenda report sets out why in this case it is considered that prior approval is required.

Whilst it is not specified within the report that the principle of the proposal is not in question, the report clearly indicates that prior approval is only required for the siting and appearance of the development. Your officer considers that the wording of the report is not misleading as suggested by the applicant, however for the avoidance of doubt, it is confirmed that the development comprises permitted development in accordance with Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), subject to the condition of the developer applying to the authority as to whether prior approval is required in respect of the siting and appearance of the development only.

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

This page is intentionally left blank

Report on Open Enforcement Cases

Purpose of the Report

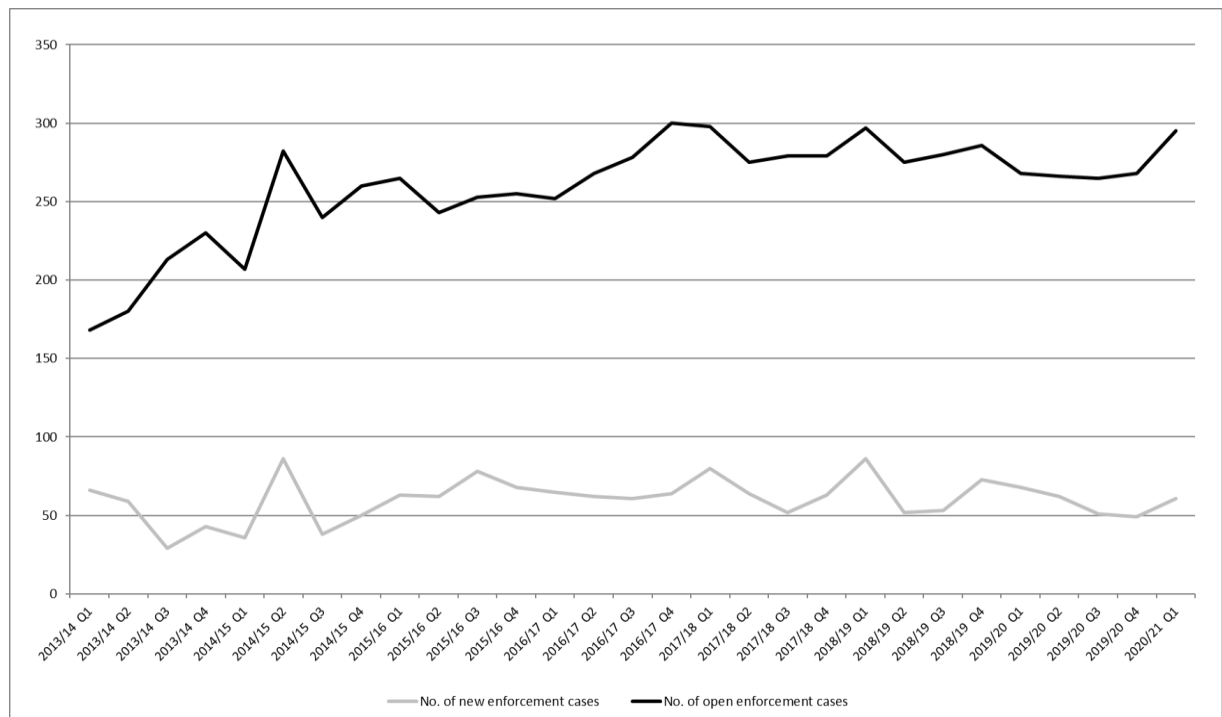
To inform members of the current situation regarding the enforcement caseload.

Recommendations

- That the report be received
- That a further update be provided alongside the next quarterly monitoring report on cases where enforcement action has been authorised.

This report will focus on of the numbers of new and open cases that have been received in the last quarter compared to the numbers in the previous quarter.

In the last quarter (April – May 2020) a further 61 new cases have been reported, more than the previous quarter (49). The current number of open cases is 295. The number of open cases has increased in this quarter given that in the last quarter it was 268. Such figures are illustrated in the graph below.



A number of the cases have associated pending planning applications that are awaiting determination (13 as at 07 July 2020).

Date report prepared

07 July 2020

This page is intentionally left blank

Planning Committee 18th August 2020

QUARTERLY REPORT ON PROGRESS ON ENFORCEMENT CASES WHERE ENFORCEMENT ACTION HAS BEEN AUTHORISED

The purpose of this report is to provide details of progress made on those cases where enforcement action has been authorised either by the Planning Committee or under delegated powers. Members should note that many breaches of planning control are resolved without recourse to the taking of formal enforcement action.

The last report was brought to the Planning Committee at its meeting on the 28th April 2020. 4 cases are reported upon. Details of all the cases, the progress made within the last Quarter, and the targets for the next Quarter are contained within the attached Appendix.

RECOMMENDATION

That the information be received.

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Residential Development on site of the Former Silverdale Colliery</p> <p>Non-compliance with condition B8 of outline planning permission 06/00337/OUT which requires the provision of 2 Locally Equipped Areas for Play (LEAPs)</p> <p>17/00258/207C2</p>	25.04.17	<p>Following refusal of a planning permission to vary a condition of the permission which would have removed the requirement to provide a second LEAP on this development, Committee resolved that Legal Services be authorised to issue enforcement to secure, within six months, the provision of a second LEAP as required by condition.</p> <p>Details of a revised play area were subsequently received which Landscape Development Services advised were acceptable. Information regarding when the play area would be installed was provided and works were undertaken in the first week of October 2018.</p> <p>A site visit was undertaken some time ago which established that all the approved equipment has been provided within the second LEAP but not the benches. Subsequently installation of the benches by the developer was being pursued.</p> <p>More recently at its meeting of 21st July, following representations regarding issues of anti-social behaviour within the play area, Committee resolved to reduce the number of benches that they require to be installed from six to two. In addition Committee resolved to request that the money saved should be put towards replacement of the basket swing.</p> <p>The Developer has been advised of the Committee's decision and requested that the two benches are installed as soon as possible in locations already approved. This information has been passed to the Parish Council also. The Developer and Parish Council have been asked to agree what equipment should be installed in place of the basket swing and seek approval of the Local Planning Authority prior to installation.</p>	Monitor site for installation of two benches.

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>5 Boggs Cottages, Keele Road, Keele</p> <p>Initially regarding unauthorised use of land for the siting of a mobile home.</p> <p>Now non-compliance with the occupancy condition attached to the mobile home</p> <p>14/00036/207C3</p>	<p>5.1.16 & 11.10.18</p>	<p>A personal planning permission (reference N14847) was granted for the siting of a mobile home on this Green Belt site due to the personal circumstances of the applicant at that time. The same restrictions were imposed on a subsequent planning permission (reference N21428) for a larger mobile home. Subsequent attempts by the original applicant to vary or remove the conditions were unsuccessful.</p> <p>It was established that the occupation of the mobile home as a dwellinghouse ceased and on 5th January 2016 Planning Committee resolved that enforcement action should be taken. An Enforcement Notice (EN) was subsequently served which, because no appeal was lodged, came into force on 13th July 2016.</p> <p>The breach of planning control referred to in the EN was “without planning permission the material change of use of the Land for the storage of a mobile home”. Subsequent visits to the site established that the Notice had not been complied with.</p> <p>On 4th January 2017 Planning Committee refused an application (16/00969/FUL) to vary the condition on permission N21428 so that it could be occupied by others. A subsequent appeal was dismissed on 5th January 2018. Shortly afterwards the applicant/appellant took ownership of the site and it was later established that the mobile home was being occupied. The breach of planning control referred to in the EN was no longer taking place therefore.</p> <p>A further EN was served on 9th November 2018 regarding the occupation of the mobile home in breach of condition 1 of planning permission N21248.</p> <p>An appeal has been lodged, a ‘start letter’ issued and the Council’s statement of case was submitted by 22nd April 2020. More recently the Inspectorate has confirmed that the hearing will be held on 6th October 2020.</p>	<p>Adhere to the appeal timetable and await the final arrangements for the Hearing</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
<p>Land at Doddlespool and Elms Farm, Off Waybutt Lane, Betley</p> <p>Breach of condition 3 of planning permission 14/00610/FUL.</p> <p>18/00251/207C2</p>	<p>7.11.18</p>	<p>Planning application 14/00610/FUL, for the retention of water reservoir, formation of hardstandings and repairs to the existing track was permitted on the 3rd December 2014 with 13 conditions. Condition 3 required all activity associated with the engineering works, including the vehicle movements, the removal of soil from the site, and the re-contouring of the site areas to cease by 1st June 2015.</p> <p>A subsequent application was permitted (reference 15/00521/FUL) extending the period set within the condition a further nine months from the decision.</p> <p>In September 2018 complaints were received that soil was being removed from the site in breach of the condition. Following correspondence from the Council that activity ceased, however further allegations were then received on 2nd November.</p> <p>Whilst the removal of the soil has been infrequent when such operations and activities at the site occur they result in a significant and detrimental harm to the residential and there is reason to consider that the breach could happen again. As such it was resolved to take enforcement action.</p> <p>An Enforcement Notice (EN) was served on 22nd November requiring the cessation of the removal of soil seven days after the notice took effect. An appeal was lodged but was subsequently withdrawn and the EN has now taken effect.</p>	<p>Monitor compliance with the EN.</p>

Address and Breach of Planning Control	Date When Enforcement Action Authorised	Background information/Progress/Action particularly that within last Quarter	Target for Next Quarter
Barn 2, Moss House Farm, Eardleyend Road, Bignall End	18.6.19	<p>Full planning permission was granted at appeal for the conversion of the barn to two residential market housing units (Ref. 13/00755/FUL). An application was subsequently submitted in 2017 to retain alterations to the approved scheme (Ref. 17/00326/FUL) but it was evident that a substantial proportion of the building had been demolished and rebuilt. Such extensive rebuilding was considered to amount to a replacement building and therefore that application was refused on the grounds that planning permission for the retention of buildings to form two dwellings the development comprised inappropriate development within the Green Belt and very special circumstances did not exist which would outweigh the harm to the Green Belt that would be caused by virtue of inappropriate development. An appeal against the Council's decision was subsequently dismissed with the Inspector also considering the development to comprise inappropriate development in the Green Belt.</p> <p>A subsequent application for the retention and alteration of the buildings to form two dwellings was refused by Planning Committee on 18th June 2019 on the grounds that it represented inappropriate development in the Green Belt and there were no very special circumstances that justified the granting of planning permission.</p> <p>On 18th June Committee also resolved that the Council's solicitor be authorised to issue enforcement action and all other notices and to take and institute on behalf of the Council all such action and prosecution proceedings as are authorised by and under the Town and Country Planning Act 1990 to secure removal of the building within 12 months.</p> <p>An application was received (19/00629/FUL) for the retention of the building for a use falling within Class B8 (storage and distribution). The application was refused on 6th March 2020.</p>	Instructions sent to Legal and enforcement notice issued.

This page is intentionally left blank

UPDATE ON CHANGES TO THE PLANNING SYSTEM – AUGUST 2020

The Government has committed to an ambitious programme of updating the planning system with the aim that it meets the requirements of the development industry and residents more effectively. Over July and into this month, a series of changes have been introduced which will have an impact on how applications are processed and decisions made.

RECOMMENDATION

That the report be noted.

Key Issues

This report has been split into two parts. The new powers enabled by amendments to existing legislation and wider changes to the planning system proposed about through the new White Paper.

NEW POWERS FOR 2020

Three key amendments have been made this summer to the planning system namely:

- The Business and Planning Act 2020,
- The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 and
- The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Details on each of these aspects of legislation is set out below:

The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020

These regulation offers property owners more opportunities to extend their properties without the need to apply for a full planning application.

A new Part 20 class A permits development consisting of works for construction of up to two additional storeys of flats on top of purpose-built detached blocks of flats, together with certain associated works. The PDR will not be available where the existing building was not originally built and remains as a block of flats.

The existing building must have been constructed between 1st July 1948 and 5th March 2018. There are various other limitations, including limitations on floor to ceiling heights of additional stories, the height of the roof of the extended building, the overall height of the

extended building and the height of the existing building, which cannot be more than three stories above ground.

The right is not available within conservation areas, for listed buildings or scheduled monuments, or on land within three kilometres of the perimeter of an aerodrome.

Prior approval must be applied for (and obtained) before any development can commence. The prior approval matters are transport and highways impacts, air traffic and defence asset impacts, contamination and flooding risks, external appearance, provision of adequate natural light, impact on amenity of the existing and neighbouring buildings and on protected views.

The development must be completed within three years of the prior approval date and a construction management report must be submitted.

There is a bespoke application process. The local planning authority can refuse an application if conditions or limitations are not clearly complied with. The authority must refuse if adequate natural light is not provided and it has relatively broad scope to request further information to help it determine an application.

Applications must be determined within eight weeks but there is no deemed approval if that timescale is not met, simply a right of appeal for non-determination.

CIL (community infrastructure levy) will be payable and local planning authorities can require planning obligations, but these should be limited to matters requiring prior approval.

The Business and Planning Act 2020

In summary, the Business and Planning Act 2020 received Royal Assent on the 22 July. It allows for the following:

- Reviving planning permissions that have expired since 23 March and providing an automatic extension to the expiry of certain planning permissions ensuring planned developments are given more time to be implemented;
- A way for developers to modify conditions relating to construction working hours;
- Provisions allowing the Planning Inspectorate to use hybrid planning appeals in place of using only one type of procedure;
- A temporary pavement licences process introducing a streamlined consent route to allow businesses to obtain a licence to place temporary furniture, such as tables and chairs outside of cafes, bars and restaurants quickly, and for no more than £100.
- Additionally, the Act provides measures relating to the London Plan.

Reviving and Extending the Life Time of Planning Permissions

The power to extend the life-time of a permission reflects similar powers introduced nearly ten years ago in response to the global financial crises. Depending on when an application may reach its expiry date, normally three years from the day of approval, the applicant may request to extend the life of the permission by writing to the LPA for approval or, if expiring

after the 19th August, obtain an automatic extension to the life of the application to May 2021.

Modification Of Conditions Relating To Construction Working Hours

These reforms allow developers to apply to the local planning authority to extend working hours temporarily on construction sites. The “fast track” application provisions enable flexibility and will be welcomed by the construction industry, but they also create an additional administrative burden for local authority planning departments, which will be required to scrutinise any application in a 14-day short window of time.

It is open to the local planning authority to approve, refuse or amend the modification, and they must do so within 14 days of the application being sent, otherwise the application is deemed to be approved.

Any temporary extension of hours will cease on 1 April 2021.

Hybrid Planning Appeals

As a result of this change, the procedural structures which the Planning Inspectorate can utilise in determining an appeal are no longer exclusive; it is now possible for the Planning Inspectorate to implement hybrid procedures, whereby (for example) an appeal can be partially dealt with by written representations and partially by a hearing or inquiry.

This change should result in potentially new flexible approaches on the part of the Planning Inspectorate, which in turn should have the effect of expediting appeal timetables. However, care will need to be taken in ensuring the procedural fairness of mixed/hybrid proceedings, and it remains to be seen precisely how this power will be deployed in practice.

Measures Relating To The London Plan

These changes allow the Mayor of London to consult on the current spatial development strategy for London by digital means only

[The Town and Country Planning \(Permitted Development and Miscellaneous Amendments\) \(England\) \(Coronavirus\) Regulations 2020](#)

Permitted Development Right For The Construction Of New Homes On Detached Blocks Of Flats

This right allows the construction of two additional storeys of new homes on the topmost residential storey of existing, detached, purpose-built blocks of flats of 3 storeys or more above ground level, together with engineering operations, replacement or installation of additional plant, construction of safe access and egress and construction of ancillary facilities, if necessary. The right does not allow for these additional works to be undertaken without the construction of the new storeys and homes.

The right applies to blocks built since 1st July 1948 (being those granted planning title under the current planning system) and 5th March 2018 when the intention to introduce a permitted development right to build upwards was first announced. Allowing an additional 2 storeys on top of purpose-built detached blocks of flats of 3 or more storeys is considered to provide more certainty for developers and local authorities, and so encourage take up, while protecting local amenity.

The Government is of the view that adding additional storeys to purpose-built blocks of flats will generally be more practical to deliver as, for example, they may already have separate internal means of access and escape, such as separate lift shafts and staircases. They do though acknowledge that older properties may not be able to meet building and fire safety requirements, which are covered by separate regimes.

The right is subject to a maximum height limit for the newly extended building of 30 metres. This height limit recognises sensitivities around local amenity and is considered to be practical in terms of carrying out the building works. All development, whether granted permission following a planning application or through a national permitted development right is legally required to comply with the Building Regulations 2010 (S.I. 2010/2214), as amended (“the Building Regulations”). Where additional storeys and homes are added to a building some aspects of the building as a whole may also be required to be upgraded under Building Regulations.

Given the potential impact on neighbours during the construction of the additional storeys and any engineering works to strengthen the building, the developer must prepare a report setting out the proposed hours of operation and how they intend to minimise any adverse impacts of noise, dust, vibration and traffic movements during the building works on occupiers of the building and neighbouring premises.

The right is subject to obtaining prior approval from the local planning authority, which will consider certain matters relating to the proposal. In line with the existing permitted development rights for change of use to residential, these allow for the consideration of potential transport and highways impacts as well as contamination and flood risks. Prior approval is also needed on the appearance of the proposal. The right does not apply in Conservation Areas, National Parks and the Broads, areas of outstanding natural beauty, or sites of special scientific interest. The right does not apply if the building is a listed building or scheduled monument, or if the land on which the building is sited is within the curtilage of a listed building or scheduled monument.

The right requires prior approval consideration in respect of the provision of adequate natural light in all habitable rooms. The application for prior approval must therefore be accompanied by detailed floor plans indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the proposed elevations of the homes. Local planning authorities are expected to exercise their planning judgement when considering the detailed floor plans and elevations in their assessment of adequate natural light in habitable rooms. Notably, Local planning authorities are required to refuse prior approval applications where inadequate natural light is provided.

The local planning authority is required to make a decision on an application for prior approval under the right within 8 weeks. The right does not provide a default deemed consent if the local planning authority fails to make a decision within this time, reflecting the significance of the matters under consideration including the potential impacts of the proposed development on the amenity of neighbours. If a decision has not been made within 8 weeks there is a right of appeal to the Secretary of State for non-determination of the prior approval application.

Natural Light

Legislative changes are being made to the General Permitted Development Order in response to concerns raised about the quality of homes delivered in some developments under existing permitted development rights for changes of use to housing. The Government is of the view that these measures will improve the quality of new homes delivered under permitted development rights by requiring that adequate natural light is provided in all habitable rooms.

The Amendment Regulations introduce a new matter for prior approval consideration in respect of the provision of adequate natural light in all habitable rooms. This requirement will apply to developments to be delivered by Class M, N, O, PA and Q in Part 3 of Schedule 2 the General Permitted Development Order and also in the new Class A of Part 20 of Schedule 2.

Detailed floor plans indicating the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the homes are required to be submitted as part of the prior approval application under paragraph W of Part 3 of Schedule 2 to the General Permitted Development Order to enable the local planning authority to consider the provision of adequate natural light. Local planning authorities are expected to exercise their planning judgement when considering the detailed floor plans in their assessment of adequate light in habitable rooms. The definition of “habitable rooms” is set out in regulation 19. Local planning authorities are required to refuse prior approval applications where inadequate natural light is provided.

Whilst the aim of this change is welcomed, it will introduce an additional technical assessment process into the determination of prior approval applications. The introduction of flexibility into the process too could also create a degree of uncertainty about how the standards should be applied with developers and neighbours potentially seeking differing interpretations of the regulations leading to additional challenges to the Council decision making powers.

The Town And Country Planning (Use Classes) (Amendment) (England) Regulations 2020

These amendments were introduced by the government on 20 July, and take effect on 1 September 2020. The new Regulations make changes to the 1987 Use Classes Order. The changes sit alongside the recent additions to permitted development rights, forming part of the government’s “Project Speed” which has the aim of supporting the high street revival and allow greater flexibility to change uses within town centres without the need for express planning permission. These new flexibilities however may also have unintended consequences which have not been foreseen.

The Regulations introduce three new use classes:

- Class E (Commercial, business and service) – including retail, restaurant, office, financial/professional services, indoor sports, medical and nursery uses along with “any other services which it is appropriate to provide in a commercial, business or service locality”;
- Class F.1 (Learning and non-residential institutions) – including non-residential educational uses, and use as a museum, art gallery, library, public hall, religious institution or law court; and
- Class F.2 (Local community) – including use as a shop of no more than 280 sqm mostly selling essential goods, including food and at least 1km from another similar shop, and use as a community hall, area for outdoor sport, swimming pool or skating rink.

The new class E now encompasses a wide range of uses common to the modern high street. What is notable, is that permitted development rights now allow a property owner far more freedom to change the use of their building without the need for planning permission.

For some of the less neighbourly uses e.g. bars and hot food takeaways these now find themselves in the sui generis class i.e. in a class all of their own which already includes uses like night clubs and larger HMO's. Properties in this group no longer have permitted development rights and any change needs planning permission.

Pubs, libraries, village shops and other buildings essential to communities will also not be covered by these changes.

To confirm, Parts A and D of the original Schedule to the Use Classes Order have been entirely deleted, with Use Classes A1, A2, A3, parts of D1 and D2 subsumed into new Use Class E along with Class B1.

Significantly, changes of use within the new Class E will not constitute development at all (as opposed to permitted development). This new flexibility is not linked to spatial considerations and therefore will apply both to high streets and all town centre uses located outside of centres. It thus has the potential to result in the introduction of non-office type activities (including retail) in traditional out of centre business parks, which runs contrary to current national and local planning policies designed to protect town centre retail.

It is anticipated by the commercial sector that some authorities will explore what powers they have to retain a greater level of control (similar to Article 4 Directions which removed permitted development rights allowing changes from offices to residential). It's clear that many will feel decisions on use and mix are still more appropriately determined at the local level. The legislation here however is more complex as a change within the same Use Class is not defined as development. Accordingly, an Article 4 Direction which looks at managing types of development may not prove to be an effective approach to protecting town centres from out of town development more traditionally seen in the high street..

NEW POWERS PROPOSED

PLANNING WHITE PAPER

On the 6th August, the Government released the new Planning White Paper known as “Planning for the Future” It contains a raft of measures designed to cut red tape and make the planning process faster, simpler, and more focussed.

The government intends to reform the local plan system in three ways:

- significantly reducing the size, including the evidence base material that sits behind them;
- significantly reducing the time taken for draft plans to progress through the process to adoption, with sanctions applying if timescales are not adhered to; and
- changing the way in which local plans facilitate development, with the aim being to move away from a discretionary decision-making system to a rules-based one.

Some of the key points are as follows:

1. Zoning

Under the new system, local authorities will be expected to bring forward stripped back local plans zoning all land in their areas for “growth”, “renewal” or “protection”. Areas zoned for growth will accommodate “substantial development” and will benefit from outline permission, but developers will still need to secure reserved matters permission in accordance with a locally drawn up design codes – though councils won’t be able to debate the principle of the scheme

The size of these zones have not been defined in the Paper but indications suggest they can range from a single site to large swathes of the Borough.

2. Renewal

Areas zoned for renewal will be seen as suitable for some development, such as densification and infill development, and will benefit from a statutory “presumption in favour” of development. Schemes that accord with locally-drawn up design codes will benefit from a “fast-track for beauty” recommended by the government’s Building Better Building Beautiful Commission.

As the expectation is that protection areas will be of a special character e.g. the Green Belt, Conservation Areas or Areas of Outstanding Natural Beauty (AONB) it is not clear under what designation open countryside may fall. If it does not benefit from the safeguarding offered by the protection zones, would it be deemed to be a renewal area where there is a stronger presumption in favour of development than currently exists for some forms of development. It will be for the LPA to specify acceptable uses in renewal areas in the plan but in defining these areas, the expectation would be that any planning application would be approved unless specific reasons suggested otherwise.

In practice, such concerns may prove to be ill-founded and renewal zones are treated in a similar manner to areas of land unallocated in the current planning system, the 'white land'.

3. Stripped back local plans

Local authorities will have 30 months to produce a new-style stripped back local plan, down from a current average of seven years. While the new plans will be more powerful in that they will confer planning permission to "growth" sites, councils will lose the ability to set local policies. Instead, all planning policy will be set nationally with local plans restricted to development allocation and the specific codes and standards to be applied to projects in the development zones. The plan should include "an interactive web-based map of the administrative area where data and policies are easily searchable", with colour-coded maps reflecting the zoning, key and accompanying text setting out "suitable development uses, as well as limitations on height and/or density as relevant" within the zones

In principle, this change is welcomed as it offers the potential to remove unnecessary duplication of national policies at the local level and the potential for conflict to arise between the two plan layers should the national policies change e.g. through a review of the NPPF.

The White Paper does recognise the need for local character and needs to be accommodated for in the plan process. This is to be facilitated through the use of new design codes which are detailed in section 8 below.

4. Section 106 scrapped

The existing system of developer contributions is to end. Section 106 agreements will be scrapped, while the existing Community Infrastructure Levy will be morphed into a nationally-set levy on development value that the government says will bring in at least as much or more in the way of developer contributions as the existing system. The levy will be paid at the point of occupation, leaving councils to pay for and deliver any infrastructure needed up front. Councils will be allowed to borrow against future levy receipts to fund this.

For parts of the country where development values are strong or when the economy is in an uplift, there is potential for this new mechanism to deliver significant infrastructure provision however, in areas or at times when such opportunity is limited, there is a concern that infrastructure may not be forthcoming so readily resulting in additional pressure on educational service, flood defences or play space which will result in an extra burden on the public purse if the development proceeds.

5. Top down housing targets

It appears the government plans to re-impose top-down housing targets on local authorities, a decade after the coalition government's first removed them. The government now envisages that every local authority will be bound by targets set by a renewed "standard method" for calculating housing need. The standard method will be based on how many existing homes are in an area, the projected rise in households, and changes in affordability.

In terms of plan preparation, this process of working to a pre-defined figure has the potential to make the process quicker and more streamlined. In doing so though, there is expected to

be critics who feel the Council is imposing unnecessary development on local communities which may foster resentment.

There is a risk that the message around who is imposing the target is unclear and whilst its hands are tied by Government, this fact is wrapped in a series of associated arguments and measures around housing need and supply which form the background to a wider national discussion around the need for new housing within which local Councils are portrayed as key decision makers. Should such a scenario arise, it has the potential for local residents to come to a false conclusion that targets are set at the local, and not the national, level.

6. “Duty to co-operate” removed

Given the imposition of a top-down target, councils will no longer have a duty to co-operate with each other over the drawing up of local plans, as the numbers will be set by government. Numbers will take into account the presence of constraints on growth, such as green belt, but the White Paper didn't clarify how this will be done.

In principle, this change is welcomed. The duty to co-operate requirement is a complex process where neighbouring authorities need to ask each other if they can accommodate some of the host councils housing need.

In some areas, this process can work but for others it can be burdensome identifying excess need, asking another council to assess whether such need can be accommodated and, if the assessment concludes only part or none of the need can be accommodated, requiring the host authority to repeat its assessment on whether it can accommodate the residual demand.

7. Protection

Areas zoned as “protected” will essentially continue with the existing planning process, with all existing Green Belt and Area of Outstanding Natural Beauty and similar such designations remaining in force.

8. New design code body

A new body is to be set up to be given the role of supporting local authorities in the creation of local design codes, and each local authority will be expected to employ a chief officer for design and place-making to oversee quality. Local design codes must have community input to be valid.

This will be one of the key areas where neighbourhood plans will be able to engage in the new planning process.

It is possible for developers to engage in the design code process for example where a new growth area is planned. The code will need to be adopted by the Council but once in place, it will be possible for development that is fully in compliance with the code to proceed with little to no necessity for a full planning application to be submitted..

9. More permitted development

Within the “renewal” areas, certain pre-approved development types – such as the densification of suburban semis – will be given automatic pre-approval via new permitted development rights. These new PD rights will also have to take account of local design codes.

10. Digital planning

Public involvement in local planning is to be hugely expanded by digitising the service, to allow much easier public access to planning documents. This is referred to as PropTech. These will be published online in standardised formats with “digitally consumable rules and data”, allowing people to respond to consultations on their smartphones. Authorities will be asked to use an “open data” approach, with the aim being to move the system from one based on documents to one based on data.

It is envisaged that in future applicants will be able to submit their proposal to a local design portal on the internet to have their scheme considered against the embedded policies and in turn receive an automatic decision on their application thus speeding up the consideration process.

Summary

There are some positive changes proposed in the White Paper. Whilst the headline proposal is the coverage of the whole borough in one of the three zones, growth, renewal or protection, some of the other changes e.g. the use of design codes and wider permitted development rights may prove easier to deliver.

The Paper is currently out for consultation till the 31st October and the Government has invited response to a series of questions on the proposals.

Date report prepared: 17th August 2020