

The application is for full planning permission for the proposed opening of the gardens at Betley Court as a visitor attraction involving the construction of a detached building to form toilets/office and facilities for light refreshment, demolition of garages and the construction of car parking

The site is located within the Green Belt, Betley Conservation Area and within an Area of Active Landscape Conservation as defined by the Local Development Framework Proposals Map. Betley Court is a Grade II* Listed Building. Trees within the site are protected under Tree Preservation Order.

The application has been called in to Committee by two Councillors on the basis that it is inappropriate development in the Green Belt and a Conservation Area.

The 8 week period for the determination of this application expires on the 28th January 2019.

RECOMMENDATION

Subject to no objections being received from the Highway Authority and the Landscape Development Section that cannot be addressed through the imposition of appropriate conditions, PERMIT subject to the following conditions:

- 1. Time limit.**
- 2. Approved plans.**
- 3. Prior approval and implementation of details of a hard and soft landscaping scheme to include details of planting to provide screening of the parking area from the house and lawn, replacement tree planting and details of surfacing and delineation of the parking area/spaces.**
- 4. Prior approval and implementation of special constructions measures and other tree protection measures.**
- 5. Prior approval and implementation of the external facing materials.**
- 6. Prior approval and implementation of a foul and surface water drainage scheme.**
- 7. Prior approval and implementation of a parking management scheme which shall include details of the management of parking associated with the residential occupation of Betley Court and measures to prevent visitors to the gardens parking on Court Walk when the gardens are open.**
- 8. Gardens to be open to visitors no more than 6 weekends per year. Any additional openings, for special events, shall only take place with the express permission of the local planning authority and shall be limited to no more than 4 additional days per annum.**
- 9. Restrictions on the hours when construction and demolition can take place.**
- 10. Prior approval and implementation of details of any kitchen ventilation system and external plant.**
- 11. Prior approval and implementation of details of external lighting.**
- 12. Restriction on the hours when deliveries and waste collections can take place.**

Reason for Recommendation

Taking into account the requirement for the decision-maker to pay special attention to such matters it is considered that the new building would be acceptable in terms of its scale, design and appearance and it would preserve the setting of the Listed Building and would not harm the character and appearance of the Conservation Area.

It is concluded that the proposed visitor facilities building represents inappropriate development in the Green Belt and should not be approved except in very special circumstances. However, it is considered that very special circumstances exist as the development will provide additional income that can be used for the maintenance and upkeep of this Grade II* Listed Building, a particularly important building of more than special interest, thereby providing some assurance of its future. Subject to confirmation from the Highway Authority and Landscape Development Section that they have no objection no other harm has been identified. As such it is considered that planning permission can be granted.

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

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

Key Issues

1.1 Full planning permission is sought for the construction of a building, measuring 84m², which would contain a refreshments area, kitchen, office and toilet facility to be used in connection with the opening up of the landscaped grounds of Betley Court as a visitor attraction for 6 weekends in any calendar year, with additional openings for events. A section of the existing garage block would be demolished. 8 parking spaces would be provided where the garages are currently located. A further six parking spaces are proposed opposite the garages which would require the removal of a laurel hedge and extension of the existing hard surfaced area.

1.2 The site is located within the Green Belt, Betley Conservation Area and within an Area of Active Landscape Conservation as defined by the Local Development Framework Proposals Map. Betley Court is a Grade II* Listed Building. Trees within the site are protected under Tree Preservation Orders.

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

- Is the development appropriate within the Green Belt? If it is not appropriate development in the Green Belt, do the required very special circumstances exist that would outweigh the harm caused by inappropriate development or any other harm?
- Is the principle of the proposed development acceptable in this location?
- Is the proposal acceptable in terms of its impact on the Listed Building and the Conservation Area, including consideration of its impact on trees?
- Impact of the development on Betley Mere (part a RAMSAR site and a SSSI)
- Would there be an unacceptable impact on highway safety?
- Would the development have an unacceptable impact on residential amenity?

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

2.1 Paragraph 133 of the National Planning Policy Framework (NPPF) indicates that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.

2.2 According to paragraph 134 of the NPPF Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and

e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

2.3 Paragraph 143 of the current NPPF indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

2.4 Paragraph 145 of the NPPF states that, other than in the case of a number of specified exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. One of these exceptions is provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. It is considered that the proposed building does not fall within this or any of the other exceptions.

2.5 The NPPF goes on to say, at paragraph 146, that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include engineering operations and material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). The additional surface area and its use for parking of vehicles would not affect the openness of the Green Belt given its limited scale. The opening of the gardens to visitors would preserve openness and involves outdoor recreation. Both elements do not conflict with any of the purposes of including land in the Green Belt. As such it is concluded that both these elements of the development are appropriate within the Green Belt.

2.6 Consideration will be given below as to whether the very special circumstances required to justify the granting of planning permission.

3.0 Is the principle of development acceptable in this location?

3.1 An identified strategic aim of the Core Spatial Strategy (CSS) is to increase the attraction of the area as a tourist destination based on its industrial heritage, existing and future magnets of tourism and leisure interests and the high quality environment in the surrounding rural area. At policy SP2, Spatial Principles of Economic Development, includes the promoting of North Staffordshire's unique heritage and its cultural distinctiveness to strengthen its viability as a tourist destination to underpin its image as a vibrant, dynamic and innovative sub-region and to promote the economic potential of the re-use of buildings, particularly those of heritage value.

3.2 The NPPF sets out, at paragraph 83, that planning policies and decisions should enable, amongst other things, sustainable rural tourism and leisure developments which respect the character of the countryside.

3.3 Such policies give broad support for visitor attractions in the rural area and as such it is considered that the development is acceptable in principle.

4.0 Is the proposal acceptable in terms of its impact on the Listed Building and the Conservation Area, including consideration of its impact on trees?

4.1 When making a decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. In addition where a planning application affects a conservation area a local planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

4.2 Saved Policy B4 of the Newcastle Local Plan (NLP) states that the Council will resist total or substantial demolition of a listed building, unless exceptionally, an applicant can convince the Council that it is not practicable to continue to use the building for its existing purpose and

there is no other viable use. Demolition will not be permitted unless there are approved detailed plans for redevelopment and, where appropriate, an enforceable agreement or contact exists to ensure the construction of the replacement building. The weight to be given to such a policy depends on how much it is in accordance with the National Planning Policy Framework (NPPF).

4.3 Saved NLP Policy B9 states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B14 states that in determining applications for building in or adjoining a Conservation Area, special regard will be paid to the acceptability or otherwise of its form, scale and design when related to the character of its setting, including, particularly, the buildings and open spaces in the vicinity. These policies are all consistent with the NPPF and the weight to be given to them should reflect this.

4.4 The NPPF, at paragraph 192, states that in determining planning applications, local planning authorities should take account of:

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

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

4.6 In paragraph 195 it is indicated that where a proposed development would lead to *substantial* harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:-

- The nature of the heritage asset prevents all reasonable uses of the site
- No viable use of heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and
- The harm or loss is outweighed by the benefit of bringing the site back into use

4.7 Paragraph 196 of the NPPF states that where a development proposal will lead to *less than substantial* harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

4.8 The proposal involves the partial demolition of a building containing garages to provide parking spaces. The loss of such garages would not be detrimental to the setting of the listed building and to the character and appearance of the Conservation Area.

4.9 The proposed extension to the parking area would involve the loss of a laurel hedge. Such limited extension and the loss of the hedge would not, in themselves, be harmful either to the setting of the listed building nor to the Conservation Area. The laurel hedge does, however, provide screening of the parking/garage area from the house and lawn. Such screening is beneficial to the setting of the Listed Building and as such it is considered necessary to secure replacement planting to provide a suitable replacement visual screen.

4.10 The building is to be sited in a wooded area close to the parking area. It is of a simple design, clad in timber with a tiled pitched roof, and of limited scale. The size and general location of the building is considered to be acceptable and appropriate although it will result in the loss of trees. The views of the Landscape Development Section (LDS) have not, as yet, been received however it is understood that they accept the loss of some trees provided such loss is kept to a minimum and is justified in the interest of tree management. Further discussions are taking place between the applicant's arboricultural advisors and the LDS to agree the extent of tree removal and the special measures that are required for the construction of the building and hard surfacing to ensure the retained trees are suitably protected. It is anticipated that the LDS will confirm that they have no objections subject to conditions following such discussions.

4.11 Overall, subject to approval of the details of materials, landscaping and tree protection measures it is considered that the proposed development will result in no harm to the heritage assets, the Listed Building and Conservation Area.

5.0 The Impact on Betley Mere Site of Special Scientific Interest (SSSI)

5.1 Paragraph 175 of the National Planning Policy Framework (NPPF) sets out that development on land within or outside a Site of Special Scientific Interest (SSSI) which is likely to have an adverse effect on a SSSI should not normally be permitted. An exception should only be made where the benefits of the development clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs. Ramsar sites are afforded the same protection.

5.2 Policy CSP4 of the Core Spatial Strategy indicates that the quality and quantity of the plan area's natural assets will be protected, maintained and enhanced through a number of identified measures.

5.3 The application site is within close proximity to Betley Mere Site of Special Scientific Interest (SSSI). In light of this the Local Planning Authority, as a competent authority, are required to undertake a Habitats Regulation Assessment under the Conservation of Habitats and Species Regulations 2017 as amended by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. Such an Assessment is carried out in stages. The first stage involves formal screening for any Likely Significant Effects. Where such effects cannot be excluded then they should be assessed in more detail through an *appropriate assessment* to ascertain that an adverse effect on the *integrity* of the site can be ruled out. Where such an adverse effect on the site cannot be ruled out, and no alternative solutions can be identified, then the project can only then proceed if there are *imperative reasons of over-riding public interest* and if the necessary *compensatory measures* are secured.

5.4 In this case it is considered that there is the potential for the development to affect Betley Mere, which is approximately 450m from the site of the building and parking, through surface water run-off and inappropriate discharge of foul sewage. Such effects could be mitigated through an appropriate and suitable drainage scheme which ensures that no untreated surface water or foul sewage can enter the Mere. Such a scheme can be secured by condition.

5.5 As such it is considered that any likely significant effects can be screened out and as such it is not necessary to undertake the further stages of the Habitats Regulations Assessment.

5.6 On balance, it is considered that subject to conditions which ensure acceptable mitigation measures it is considered that the development would have no significant and long term harmful impact on the identified designated sites. It would therefore be in accordance with policy CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and the guidance and requirements of the NPPF.

6.0 Impact on highway safety

6.1 At paragraph 109 the NPPF indicates that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. Policy T16 of the Local Plan, adopted in 2003, states that development will not be permitted to provide more parking than the levels set out in an appendix and also that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets.

6.2 Currently residents of Betley Court have access to parking at the rear within the immediate grounds of the House or within the garage court area. Many residents, however, opt to park on Court Walk limiting its width to a single vehicle. It is understood that the reason for this is because of the limited space there currently is to park and manoeuvre within the garage court area.

6.3 The proposed demolition of garages and extension of the parking area will provide surface parking for 14 cars. It will improve the amount of space to manoeuvre and as such will make it more attractive to residents. The applicant has indicated that once the improvements have been undertaken it will be a condition of their lease for the flats in Betley Court that they must park on site thereby addressing the parking situation on Court Walk. In addition measures could be secured through condition that could be utilised when the gardens are open to visitors and that would prevent such visitors parking on Court Walk.

6.4 It is anticipated that the level of parking as proposed within the site will be sufficient to meet the needs of the residents and the visitors to the gardens. The applicant has, however, planned to provide overspill parking for visitors on the lawn using temporary surfacing. Overall it is considered that sufficient parking is proposed.

6.5 It is noted that the Highway Authority have objected to the application requesting additional information. Such information has been provided and it is anticipated that their further comments will be provided and reported to Committee prior to the meeting.

7.0 Would the development have an unacceptable impact on residential amenity?

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

7.2 The proposed building and parking area would, due to the existence of a tall boundary wall, not be readily visible to residents within Court Walk and as such there would be no material loss of privacy arising from the proposed development.

7.3 The introduction of visitors to the site has the potential to cause disturbance to occupants of Betley Court and the dwellings sited near to the House and its gardens, mainly due to the vehicular movements associated with the proposed use. Such impacts could, however, be kept to an acceptable level through conditions to restrict the number of times in a year that the gardens are open to the public in addition to those recommended by the Environmental Health Division.

8.0 If not appropriate development in the Green Belt, do the required very special circumstances exist that would outweigh the harm caused by inappropriate development or any other harm?

8.1 As indicated above, the NPPF, at paragraph 144, indicates that very special circumstances (to justify inappropriate development) will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

8.2 The applicant has advanced the case that the income generated by the opening of the gardens to visitors is required to provide additional income for the upkeep of the Grade II* Betley Court. Income is currently generated from the flats that were formed 40 years ago within the house and servant's quarters and from the owners who have lived in the property. The indication is that this model no longer works well.

8.3 The applicant has provided examples of the maintenance projects and the cost that have been identified as being necessary to be undertaken to the house and grounds. One of the most costly project is repair to the dam in the garden for which funding has been offered from the Heritage Lottery Fund. A condition of the funding is, however, that the gardens are opened up to visitors.

8.4 The opening up of the gardens to visitors would generate income with no adverse impact on the openness of the Green Belt and does not conflict with any of the purposes of including land in the Green Belt. The limited facilities proposed would make the gardens more attractive to visitors and would provide an additional source of income

8.5 It is accepted that the cost of maintaining heritage assets can be significant. In addition is acknowledged that this is a Grade II* Listed Building and as such it is a particularly important building of more than special interest. It should also be borne in mind that the NPPF highlights the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, which is what this proposal would achieve. The principle of generating additional income to carry out such maintenance is therefore supported and is, in this case, considered to provide the very special circumstances required to justify the granting of permission for inappropriate development in the Green Belt.

APPENDIX

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

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

Policy SP2: Spatial Principles of Economic Development
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP1: Historic Environment
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets

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

Policy S3: Development in the Green Belt
Policy T16: Development – General Parking Requirements
Policy N12: Development and the Protection of Trees
Policy B13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Considerations
Policy N18: Area of Active Landscape Conservation
Policy C4: Open Space in New Housing Areas
Policy B4: Demolition of Listed Buildings
Policy B5: Control of Development Affecting the Setting of a Listed Building
Policy B9: Prevention of Harm to Conservation Areas
Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area
Policy B11: Demolition in Conservation Areas
Policy B13: Design and Development in Conservation Areas
Policy B15: Trees and Landscape in Conservation Areas
Policy B14: Development In or Adjoining the Boundary of Conservation Areas

Other Material Considerations

[National Planning Policy Framework](#) (July 2018)
[Planning Practice Guidance](#) (PPG) (March 2014)

Supplementary Planning Documents/Guidance

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)
[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

Planning History

An application, reference 18/00268/FUL, for proposed opening of gardens as a visitor attraction; conversion and extension of potting shed to form toilets/office and facilities for light refreshments; demolition of garages with partial replacement and the construction of car parking was WITHDRAWN before a decision was reached.

Views of Consultees

The **Environmental Health Division** has no objections subject to conditions that restrict the hours when construction and demolition will take place; approval of details of any kitchen ventilation system and external plant; approval of details of external lighting; and restriction on the hours when deliveries and waste collections can take place.

The **Highway Authority** considers that the application should be refused as there is insufficient information to determine the proposal and additional information is required to

clarify the number of parking spaces; the number of spaces which will be for residents use only and those for visitors; details of how car parking will be signed and delineated; and provision of secure weatherproof cycle parking.

Betley, Balterley and Wrinehill Parish Council objects to the application. It is strongly of the view that the preservation of the Listed Building is to be encouraged, however the application submitted cannot be supported for the following reasons:

- Very special circumstances don't exist to justify the development
- The very special circumstances claimed by the applicant, that the development would "increase the income generated by the property" in order to secure the future of the Listed Building are not supported by any evidence.
- The size of the accommodation to service the visitor attraction is excessive at 84m²
- There could be significant adverse impact on neighbouring properties and objections have been received from several members of the public.

Natural England indicates that the application could have potential significant effects on a component site of the Midlands Meres and Mosses Phase 1 Ramsar Site (Betley Mere). The advise that they require further information in order to determine the significance of these impacts and the scope for mitigation. The required information is a Habitats Regulations Assessment (HRA) undertaken by the Local Planning Authority as competent authority under the Conservation of Habitats and Species Regulations 2017.

The **Conservation Advisory Working Party** (CAWP) welcomes the revisions to this scheme particularly the relocation and scale of the visitor facility closer to the parking area. It recommends that a wood shingle roof would be better than slate in this location. CAWP welcomes the additional parking area by removal of the laurel hedge but this feature is tall and dense and provides a valuable screening of the cars and garages from the more formal setting around the house and lawns. This element of intimacy and surprise provided by the hedge is important and another hedge might be appropriate to provide some boundary screening to the car park.

The **Conservation Officer** understands that there will be some tree issues to resolve regarding the methodology of construction for the new facility. The building is more appropriate than the building proposed within the withdrawn application in terms of its size and location and has less invasive impact and need for ground engineering than the previous scheme. It keeps the development and movements to one location which is already used for parking. The removal of some of the garages is welcomed and replacement with parking spaces will enable more of the garden wall to be visible.

There needs to be some kind of a hedge to give some screening between the house/lawn and the car park when the laurel hedge is removed. This point was also made by CAWP and it is understood that the applicant agrees with this so there may be an amended plan to reflect this.

The issue is one of setting and it is not considered that the setting of the house will be compromised by the scheme. The scheme is a positive step which will hopefully result in archive research being done which will enable the original landscaping scheme to be understood and hopefully reinstated.

United Utilities recommend conditions relating to the drainage of foul and surface water on separate systems and approval of a surface water drainage scheme.

Cadent (on behalf of the National Grid) provide notes for the applicant.

The views of the **Landscape Development Section** have been sought and if received will be reported.

Representations

Seven representations have been received objecting to the application and raising the following concerns:

- At present several residents of Betley Court park outside of the site on Court Walk reducing the width to a single lane. Access for emergency vehicles has been impeded in the past. The opening of the gardens to visitors will cause more traffic congestion.
- The entrance to access to Court Walk is close to a bend and the increased use of it will be a threat to traffic passing through Betley and the residents.
- There is insufficient parking to support the proposal.
- The proposal will cause disruption to the tranquil setting and increase emissions of toxins into the atmosphere harming residents and wildlife.
- Increased human activity will bring the usual negative aspects including litter and an eyesore.
- The proposed building is large and consideration should be given to the impact on the landscape, Green Belt and on the Conservation Area.
- It will result in loss of privacy.
- The visitor centre will create noise, vibration, and smoke and light pollution.
- The submitted plans don't show the proximity of the building to existing residential properties.
- The proposal will not generate sufficient additional income to make a significant difference with regard to maintaining the Hall and further proposals will be necessary in future.
- No details of how parking might be managed is provided.
- The history of the gardens are of little consequence and are not remarkable.
- Part of Betley Court should be used as a tea room rather than the proposed building.
- The facility affects an area partly funded by residents of Court Walk who do not wish this amenity to be degraded or infringed.

Applicant/agent's submission

The planning application is supported by the requisite application forms and indicative plans, along with the following supporting documents;

- Planning Statement
- Tree Survey, Arboricultural Impact Assessment and Method Statement
- Transport Statement and Summary of Parking Arrangements
- Phase 1 Environmental Assessment
- Heritage Appraisal
- Ecological Assessment

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00943/FUL>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

16th January 2019